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95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1060

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATION BILL, 1979

AUGUST 1 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. PROXMIRE, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 12936]

The Committee on Appropriations, to which was referred the bill (H.R. 12936) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, institutes, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes, reports the same to the Senate with various amendments and presents herewith an explanation of the contents of the bill.

AMOUNT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	Fiscal year 1979
Amount of bill as passed by House	$68,208,848,000
Amount of change by Committee	+255,526,000
Amount of bill as reported to Senate	68,464,374,000
Amount of appropriations to date, 1978	74,308,601,000
Amount of budget estimates, 1979	69,517,534,000
Under estimates for 1979	−1,053,160,000
Under appropriations for 1978	−5,844,227,000

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SUMMARY OF THE BILL

Department or agency	Appropriations, 1978	Budget estimates, 1979	House bill	Committee recommendations	Senate bill compared with—		
					Appropriations, 1978	Budget estimates, 1979	House bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
American Battle Monuments Commission	$6,463,000	$6,240,000	$6,240,000	$6,240,000	−$223,000		
Cemetarial expenses, Army	5,000,000	5,200,000	5,100,000	5,100,000	+100,000	−$100,000	
Consumer Information Center	4,700,000	1,186,000	1,166,000	1,146,000	−3,554,000	−40,000	−$20,000
Consumer Product Safety Commission	39,144,000	41,463,000	40,000,000	40,000,000	+856,000	−1,463,000	
Council on Environmental Quality	2,854,000	3,126,000	2,926,000	3,026,000	+172,000	−100,000	+100,000
Department of Housing and Urban Development	37,388,644,000	33,062,287,000	32,013,270,000	32,046,568,000	−5,342,076,000	−1,015,719,000	+33,298,000
Department of the Treasury	8,263,574,000	6,863,567,000	6,863,174,000	6,863,174,000	−1,400,400,000	−383,000	
Disaster relief	450,000,000	200,000,000	200,000,000	200,000,000	−250,000,000		
Environmental Protection Agency	5,478,003,000	5,676,360,000	5,374,446,000	5,721,971,000	+243,968,000	+46,611,000	+347,525,000
Federal Home Loan Bank Board [1]	(43,830,000)	(49,508,000)	(49,023,000)	(48,628,000)	(+4,798,000)	(−880,000)	(−395,000)
National Aeronautics and Space Administration	4,017,940,000	4,371,600,000	4,333,890,000	4,358,200,000	+340,260,000	−13,400,000	+24,310,000
National Commission on Air Quality		4,000,000	2,000,000	2,000,000	+2,000,000	−2,000,000	
National Institute of Building Sciences	1,000,000		1,000,000	500,000	−500,000	+500,000	−500,000
National Science Foundation	861,300,000	934,000,000	893,900,000	927,000,000	+65,700,000	−7,000,000	+33,100,000
Office of Consumer Affairs	1,750,000	1,737,000	1,700,000	1,700,000	−50,000	−37,000	
Office of Science and Technology Policy	2,800,000	2,521,000	2,476,000	2,476,000	−324,000	−145,000	
Selective Service System	6,300,000	9,500,000	7,045,000	7,045,000	+745,000	−2,455,000	
Veterans Administration	17,779,129,000	18,335,647,000	18,460,515,000	18,278,229,000	+499,098,000	−57,419,000	−182,287,000
Total	74,304,601,000	69,517,534,000	68,208,848,000	68,464,374,000	−5,844,227,000	−1,053,160,000	+255,526,000

[1] Limitation on corporate funds to be expended.

GENERAL STATEMENT

The Committee recommends new budget (obligational) authority of $68,464,374,000 for the Department of Housing and Urban Development, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Science Foundation, the Veterans Administration, and 12 other agencies, commissions, boards, corporations, institutes and offices. This amount is $5,844,227,000 under the appropriations enacted for fiscal year 1978, $1,053,160,000 below the budget estimate for fiscal year 1979, and $255,526,000 more than was provided in the House bill for fiscal year 1979.

A table setting forth the budgetary impact of the bill can be found on page 81 of this report. The table compares the total recommended by the Committee with the amount allocated in the first concurrent budget resolution for the programs addressed by this bill. It should be noted that substantial amounts of new budget authority have been reserved pending the passage of authorizing legislation yet to be considered by the Congress, such as proposals to increase veterans benefits.

The summary table on page 3 of this report provides an analysis of the amounts recommended in the bill as compared to the appropriations enacted in fiscal year 1978, the estimates for fiscal year 1979, and the amounts recommended by the House.

Highlights

The Committee has recommended a number of changes in the House bill. The most significant are:

1. The provision of $4,000,000,000 in stand-by recaptured emergency mortgage purchase assistance authority for use in the event of a housing recession.
2. An increase of $20,000,000 for a new congregate housing services program for the elderly and handicapped.
3. An increase of $35,000,000 for clean air and solid waste programs.
4. An increase of $14,000,000 for areawide waste treatment planning under section 208 of the Federal Water Pollution Control Act.
5. An increase of $300,000,000 for municipal wastewater treatment facilities.
6. The restoration of $20,500,000 to the space budget for a Skylab retrieval system.
7. An increase of $40,000,000 for the research programs of the National Science Foundation.
8. A decrease of $182,287,000 in funding for the Veterans Administration, including reductions of $49,300,000 for GI bill benefits, $62,919,000 in medical care and $52,085,000 in hospital construction.

Reprograming and Initiation of New Programs

The Committee continues to have a particular interest in being informed of reprogramings both between accounts and within the confines of a single account which may not change either the total amount available in the account nor any of the purposes for which the appropriation is legally available but which represent a significant departure from budget plans presented to the Committee in the various budget justifications.

Consequently the Committee directs that the Department of Housing and Urban Development and the agencies funded through this bill notify the chairman of the HUD-Independent Agencies Subcommittee prior to reprograming of funds in excess of $250,000 or 10 percent, whichever is less, between programs or activities. The Committee recognizes that, in some cases, reprogramings may occur because of the functioning of law or other circumstances beyond the control of the agency. This rule is not meant to apply in those situations. The Committee desires to be notified of reprograming actions which involve less than the above-mentioned amounts if such actions would have the effect of committing the agency to significant funding requirements in future years. Finally the Committee wishes to be informed regarding substantial reorganizations of offices, programs, or activities prior to the implementation of such reorganizations.

Status of Authorizations

The Committee notes that authorizations for many of the programs administered by a number of the agencies funded through this legislation, though passed by the Senate, have not yet been signed into law. Included in this category are programs of the Consumer Product Safety Commission, the Department of Housing and Urban Development, the Environmental Protection Agency, the National Science Foundation and the National Aeronautics and Space Administration.

Effects of Committee Action on Budget Outlays

The budget outlays for the Department of Housing and Urban Development together with the independent agencies funded by this bill resulting from funding requested by the administration would be $44,285,849,000. The Committee's recommendations would result in an increase in this amount of about $491,151,000 for a total outlay figure of approximately $44,777,000,000.

Permanent Obligational Authority

Substantial sums of new budget (obligational) authority are made available by permanent legislation for the continuation of certain government activities that are not subject to the annual appropriation process. Details of these activities for the agencies covered in this bill are reflected in appropriate tables appearing at the end of this report. The most significant are the public debt transactions of the Department of Housing and Urban Development in its mortgage financing and insurance activities, and the life insurance programs of the Veterans Administration. The budget estimates that such permanent authorities will aggregate $1,258,245,000 in fiscal year 1979.

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

	Contract authority	*Budget authority*
1978 limitation	(1, 159, 995, 000)	$31, 483, 563, 000
1979 budget estimate	(1, 334, 950, 000)	24, 650, 950, 000
House allowance	(1, 334, 950, 000)	24, 650, 950, 000
Committee recommendation	(1, 334, 950, 000)	24, 650, 950, 000

The Committee recommends an increase in the current limitation on annual contribution contracts for assisted housing of $1,334,950,000 and an overall limitation of $24,650,950,000 in the new budget authority to be committed under such contracts. The recommended limitation on annual contract authority is the same as the budget request and the House allowance. The limitation on new budget authority recommended by the Committee is identical to the budget request and the House allowance.

The funding provided supports the subsidization of new, rehabilitated, and existing lower income housing units through the conventional public housing program as well as section 8 of the Housing and Community Development Act of 1974. Under the section 8 program the Department of Housing and Urban Development pays the difference between the fair market rent of a unit and the amount of rent paid by an eligible tenant. Conventional public housing support, on the other hand, allows local public housing agencies to pay the principal and interest on obligations issued by the agencies to finance the development, acquisition, or modernization costs of lower income housing.

The Committee has amended the House passed bill by providing $50,000,000 in annual contract authority for public housing modernization rather than the $37,500,000 requested by the administration and approved by the House. However, this additional support for the modernization program is to be taken from the budget request for the existing and new housing programs. The Committee has not provided an increase in total program funding.

The amount provided, together with a carryforward of $6,400,000,000 in unused budget authority from the current fiscal year will permit the Department to reserve 396,200 subsidized rental units for low-income households in 1979 assuming no increase in housing costs over the next 12 months. However if the administration's "no inflation" assumption proves to be incorrect, as is likely, the number of units to be subsidized may drop well below 396,200, depending on the rate of inflation in the housing sector. The following table sets forth the Department's assumptions as to the use of the contract and budget authority the Committee has provided.

[Dollar amounts in thousands]

	Units	Contract authority	Years of contract	Budget authority
SEC. 8				
New construction:				
Private developer	73,550	[1] 308,917	20–30	6,795,500
Sec. 202	15,000	63,000	20	1,260,000
Farmers Home	10,000	32,000	20	640,000
State agency	10,000	45,000	40	1,800,000
Subtotal	108,550	448,917	NA	10,495,500
Substantial rehabilitation:				
Private developer	49,240	194,500	20–30	4,282,000
Sec. 202	10,000	42,000	20	840,000
State agency (HFDA)	10,000	45,000	40	1,800,000
Subtotal	69,240	281,500	NA	6,922,000
Existing housing:				
Regular rental	113,410	249,500	15	3,742,500
Moderate rehabilitation	39,000	107,250	15	1,608,750
HUD-insured/HUD-held/HUD-owned	10,000	17,500	15	262,500
Subtotal	162,410	374,250	15	5,613,750
Total, Sec. 8	340,200	1,104,667	NA	23,031,250
PUBLIC HOUSING				
Public housing	50,000	155,000	40	6,200,000
Indian housing	6,000	25,200	32	819,700
Subtotal, production	56,000	180,200	40	7,019,700
Modernization	NA	50,000	20	1,000,000
Total, public housing	56,000	230,200	NA	8,019,700
Total, new authority for annual contributions	396,200	[2] 1,334,867	NA	31,050,950
Less available balance from prior authorizations	NA	----------	NA	−6,400,000
Authority recommended for release in 1979	NA	[2] 1,334,867	NA	24,650,950

[1] Rounded.
[2] The amount of annual contract authority provided by the Committee is slightly greater than the amount shown in this table, reflecting the Committee's intention to provide the full amount requested despite changes caused by the shift of funds into modernization.

In the absence of "set-asides", the Committee strongly recommends that the Department attempt to provide units through those programs that are best suited to the specific needs of the individual States, rather than through arbitrary base levels. The Department should acquire the necessary data from the local housing authorities in the States to ascertain which programs would best meet the States' housing needs.

The Committee notes that two significant changes have been proposed in the assisted housing program in fiscal year 1979.

First, a new moderate rehabilitation program will be implemented as a part of the section 8 existing housing effort. This will enable landlords to bring existing housing units up to established housing quality standards by allowing an increase in the section 8 subsidy to take into account the cost of financing the rehabilitation work.

Second, beginning in 1979, each public housing modernization project will be handled through a separate contract commitment rather than as an addition to an existing annual contribution contract. The new contract commitment will be for a period of 20 years. This will allow the Department to direct modernization funds to older and

more deteriorated public housing projects whose existing annual contributions contracts are scheduled to terminate within the next few years.

Although the Committee commends the Department for producing more than 100,000 subsidized housing starts in fiscal year 1977 for the first time since 1973, the Committee continues to believe that improvements can be made in a number of areas.

For example a House investigative report indicated that it took an average of 352 days to complete the processing of a sampling of section 8 new construction and substantial rehabilitation projects. This is far too long.

The completion rate for conventional public housing is disappointing. The Department estimated last year that there would be 30,000 public housing completions in fiscal year 1977. In actuality only 6,192 units were completed. There should be a substantial improvement in this record.

The section 8 new construction program is very successful in providing housing for the elderly, but much less useful in housing families. It should be possible to strike a better balance between the two groups.

The Committee is particularly concerned over the failure of the Department to halt the paying of "shoppers subsidies" to in-place section 8 tenants, despite a Committee directive to put an end to this practice. A recent General Accounting Office report has indicated that this subsidy has not encouraged families to shop for less expensive housing, as it was intended to do. Furthermore the GAO report indicated "at current costs and rate of participation in the rent credit feature, costs to the Department would increase to about $33,100,000 annually once all housing units authorized through fiscal year 1978 are leased." The Committee once again directs the Department to cease the payment of "shoppers subsidies" to in-place tenants and has made a modest reduction in the amount of liquidating cash provided for subsidizing housing payments under the housing payments account to reflect the savings that can be achieved by halting this wasteful program.

HOUSING PAYMENTS (LIQUIDATION OF CONTRACT AUTHORITY)

1978 appropriation	$4, 382, 000, 000
1979 budget estimate	4, 503, 000, 000
House allowance	4, 463, 000, 000
Committee recommendation	4, 460, 000, 000

The Committee recommends an appropriation of $4,460,000,000 in liquidating cash for payments of amounts falling due in fiscal year 1979 under subsidized housing contracts. The amount provided is $3,000,000 below the funding recommended by the House and $43,000,000 less than the budget estimate.

This appropriation provides funding for the payment of contractural commitments made under the section 8 low-income housing assistance program, the rent supplement program, the section 235 homeownership assistance program, the low-income public housing program, and other subsidized housing programs.

The Committee concurs with the House reduction of $40,000,000 based on a revised estimate of the number of units that will be entitled to subsidy payments in fiscal year 1979.

The Committee has made a further reduction of $3,000,000 in anticipation of the savings that will be achieved by halting the practice of paying shoppers subsidies to in-place section 8 tenants, a problem that is discussed earlier in the report. The projected savings do not assume the termination of existing commitments to make such payments but are based on the fact that contracts involving such shopping subsidy payments will not be entered into in the future.

HOUSING FOR THE ELDERLY OR HANDICAPPED
(LIMITATION ON LOANS)

1978 limitation	$750,000,000
1979 budget estimate	800,000,000
House allowance	800,000,000
Committee recommendation	800,000,000

The Committee approves a limitation on long-term loans made under the section 202 program for housing the elderly or handicapped of $800,000,000 which is the same as the House total and the budget estimate.

The section 202 program provides 100 percent financing, based on the Treasury borrowing rate, plus an allowance to cover administrative costs, for the development of housing for the elderly or handicapped. The money is provided only to qualified nonprofit sponsors. Additional support is provided through the section 8 program funded under the assisted housing account to help occupants of this housing in paying their rent after construction has been completed.

The increase of $50,000,000 over the amount provided for the current fiscal year will allow the Department to reserve 1,400 additional units in 1979 and a total of 25,000 units in the coming fiscal year, assuming no housing cost inflation. This increase is intended to provide financing for projects designed specifically for nonelderly handicapped persons.

The Committee concurs with the House in approving bill language which will permit the Department to utilize uncommitted or recaptured loan authority initially made available in fiscal years 1976, 1977, and 1978 in addition to the loan authority recommended for fiscal year 1979. This language removes the pressure to commit funds for questionable projects before the end of a fiscal year to avoid losing the money and thus should result in a more effective use of Federal dollars.

The Committee received testimony and questioned the Secretary of HUD on the question of opening up this program to other than nonprofit participators. Some very cogent arguments were made on both sides of this question but HUD's position is that the program should remain available only to nonprofit sponsors. This position is founded on the perception that the program is going well under the present limitation and that, to date, HUD had adequate funds to approve only 20 percent of the proposals submitted by nonprofit organizations. Because there is a divergence of views on this issue, it would be helpful if HUD would submit to the Appropriations Committees by the end of this calendar year a short report regarding the possibility of opening up the program to other than nonprofit sponsors with HUD's prognosis of what it would mean to the program to open it up and the bases for their conclusions.

CONGREGATE SERVICES PROGRAM

1978 appropriation	
1979 budget estimate	
House allowance	
Committee recommendation	$20,000,000

The Committee recommends $20,000,000 to fund a new program to provide congregate housing services for elderly and disabled tenants in public housing projects and apartment units constructed under the section 202 program. No funds were requested for this program nor did the House recommend support for congregate services.

The congregate services program, as established by title IV of the Senate-passed Housing and Community Development Amendments of 1978, is intended to assist full implementation of the congregate housing provisions of the 1970 Housing Act. Title IV specifies that a full meals program must be part of each congregate housing service package funded by the Department and that housekeeping assistance, personal care assistance, and other services conducive to the maintenance of independent living may be included in the service package. A full meals program must provide at least two meals per day for 7 days a week. Transportation to reach shopping or other community activities could also be funded under the legislation if the housing authority was unable to provide such service under other appropriate local or Federal programs.

The funding recommended by the Committee will allow the Department to enter into 3 to 5 year contracts with public housing agencies and nonprofit corporations for congregate services programs. The Committee directs that the Department use the amount recommended to provide services currently not available rather than to continue programs presently funded from other sources.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

1978 appropriation	$685,000,000
1979 budget estimate	729,000,000
House allowance	723,000,000
Committee recommendation	729,000,000

The Committee recommends an appropriation of $729,000,000 for payments for the operation of low-income housing projects. This amount is $6,000,000 over the House allowance and the same as the budget estimate.

Payments for the operation of low-income housing projects are provided to assist public housing agencies (PHA's) to meet certain deficits in the operation of PHA-owned low-income housing in accordance with the United States Housing Act of 1937, as amended. Operating subsidies provided to PHA's are based on a performance funding system formula which limits subsidy payments to what it would cost a well-managed public housing agency to operate comparable projects.

The amount recommended includes $669,000,000 to be made available under the performance funding system formula, $23,000,000 for four PHA's not funded under the formula, $25,000,000 for utility consumption costs based on a 30-year temperature average, and $12,000,000 for discretionary funding to meet new or unforeseen requirements.

The Committee's action restores a $6,000,000 House cut in discretionary funding which clearly will be needed to meet contingencies.

If the amount appropriated for public housing operating subsidies is insufficient to fund fully the performance funding system for al-

locating operating subsidies and to provide a reserve for unforeseen requirements, the Committee directs HUD to submit a supplemental budget request to increase the level of funding for public housing operating subsidies to meet those needs.

TROUBLED PROJECTS OPERATING SUBSIDY

1978 appropriation	
1979 budget estimate	$74,000,000
House allowance	74,000,000
Committee recommendation	74,000,000

The Committee recommends the appropriation of $74,000,000 for a new troubled projects operating subsidy program. This amount is identical to the budget estimate and the House allowance.

The troubled projects program involves a flexible yearly subsidy designed to deal specifically with HUD's insured multifamily projects encountering financial difficulty. It is intended to combine assurances of improved management with the financial assistance necessary to preserve existing projects. The program would pay the difference between HUD-approved rents—covering both debt service and operating expenses for a particular project—and that portion of income which tenants can reasonably be expected to pay for housing. It would be available for section 236, section 221(d)(3) below-market interest rate, and section 221(d)(3) market-rate rent supplement projects.

Because the subsidy is provided on a year-to-year basis, the Department is in a position to demand a certain level of management performance as its price for continuing the subsidy. Since a major goal of the program is to prevent potential losses to the Federal Housing Administration Fund resulting from project insolvency, the Committee expects the Department to condition support of a project on the improvement or maintenance of good management as a key factor in the financial viability of the project. Furthermore, the Committee expects the subsidy to be paid only when it appears likely that long-term costs of providing the subsidy will be less costly to the Federal Government than other reasonable alternatives by which the Department could maintain the low and moderate income character of the project.

The $74,000,000 recommended by the Committee is expected to provide assistance for approximately 130,000 to 150,000 units in 2,100 subsidized insured multifamily housing projects. The Committee understands that the subsidy will probably not be used for projects while they are in the HUD-acquired inventory.

FEDERAL HOUSING ADMINISTRATION FUND

1978 appropriation	$15,000,000
1979 budget estimate	352,290,000
House allowance	352,290,000
Committee recommendation	352,290,000

The Committee concurs with the House in providing $352,290,000 to pay for losses incurred by the Federal Housing Administration (FHA) Fund. This amount is identical to the budget estimate.

The funding recommended by the Committee would restore losses incurred in the FHA's special risk insurance and general insurance funds resulting from the sale of assigned mortgages and acquired

properties through September 30, 1977. Of the total of $352,290,000, $164,093,000 is for the general insurance fund and $188,197,000 is for the special risk insurance fund.

Since 1969, proceeds from sales of acquired properties, application fees, insurance premiums, amortization of HUD-held mortgages, and other dividends and interest have been insufficient to cover both operating expenses and insurance claims in the general insurance and special risk insurance funds. The Department has borrowed from the Treasury—as authorized by the National Housing Act, as amended—to pay cash insurance claims from both funds. As a result of annual borrowings, Treasury interest has become the single largest component of FHA Fund expenses. The Committee allowance would provide cash both for operations and for claim payments and would help decrease the dependency on Treasury borrowings, assisting in reducing interest expense which utilizes funds which would otherwise be available for operating expenses.

COLLEGE HOUSING—LOANS AND OTHER EXPENSES

Although language was proposed in the budget that would transfer all the assets and liabilities of the college housing fund to the revolving fund for liquidating programs, the House bill contains language allowing loan repayments, less operating costs, to be used for further college housing loans. The Committee concurs in this language, which will provide approximately $95,000,000 in fiscal year 1979 for the college housing loan program.

The Committee believes that these funds should be limited to the following projects in the priority listed:

(1) Projects involving the rehabilitation or alteration of existing housing to improve fuel economy or otherwise reduce operating costs.

(2) Projects underway in areas with dormitory housing shortages but with no financing or only partial financing.

(3) The construction or acquisition of housing for institutions having a previously HUD-approved master plan for student housing and a current severe housing shortage.

The basic intent of the Committee in continuing the program is to provide for those colleges and universities that still have a genuine dormitory shortage. The Committee does not intend to reopen the program and recognizes the fact that it may be appropriate to completely terminate the program in fiscal 1980.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

	Authority to use recaptured payments
1978 appropriation	
1979 budget estimate	
House allowance	
Committee recommendation	$4,000,000,000

The Committee recommends the provision of $4,000,000,000 in standby authority for the Emergency Mortgage Purchase Assistance program. This funding was not requested by the administration or approved by the House.

The Government National Mortgage Association (GNMA) may use this authority to purchase HUD-insured and VA-guaranteed as well as conventional mortgages bearing interest rates of 7½ percent. Although this support was not requested, the Committee believes that the Department should have the stand-by authority to commit these funds in the event that a depressed housing market threatens to lower housing production, especially in the multifamily area, to unacceptable levels.

The funds provided can only be utilized upon a finding by the Secretary of HUD that conditions justify the release of the authority. Furthermore the entire $4,000,000,000 recommended is to come from recaptured budget authority previously provided. Recaptured authority is generated by the sale of mortgages from the GNMA portfolio, cancellations, foreclosures, repayments, and so forth. By directing the Department to use recaptured authority, the Committee avoids the necessity of providing additional new budget authority.

It should be noted that although the amount of purchase authority provided is quite large, the net dollar cost of the program is low because mortgages purchased by the Federal Government are subsequently sold. Thus the net outlay per $1.000,000,000 of mortgage purchase authority exercised is only $150,000,000 or so.

SPECIAL ASSISTANCE FUNCTIONS FUND

	Borrowing authority	*Authority to use recaptured payments*
1978 appropriation		$2, 000, 000, 000
1979 budget estimate	$1, 500, 000, 000	500, 000, 000
House allowance	500, 000, 000	1, 500, 000, 000
Committee recommendation	500, 000, 000	1, 500, 000, 000

The Committee concurs with the House in recommending the use of $2,000,000,000 in mortgage purchase authority by GNMA as requested in the President's budget.

GNMA will use this authority to purchase federally subsidized or insured mortgages bearing interest rates as low as 7½ percent. Of the total recommended, $1,500,000,000 will support the production of approximately 50,000 new and substantially rehabilitated housing units for low- and moderate-income families assisted under the section 8 program. This additional support for the section 8 program will reduce the effective interest costs, debt service requirements and, therefore, rent levels of assisted projects.

Up to $500,000,000 will be used to purchase mortgages on project located in distressed cities and neighborhoods which are undergoing or showing prospects for revitalization. Designated as "Targeted Tandem," the program will encourage private financial involvement in urban revitalization efforts and will make available about 16,700 units.

In its budget submission, the Department requested approval for the $500,000,000 in recaptured authority and $1,500,000,000 in new budget authority. The Committee has concurred with the House in recommending the use of only $500,000,000 in new budget authority and $1,500,000,000 in recaptured authority in view of the fact that GNMA currently has more than $1,500,000,000 in recaptured authority on hand.

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

1978 appropriation	$16, 587, 000
1979 budget estimate	20, 477, 000
House allowance	20, 477, 000
Committee recommendation	20, 477, 000

The Committee concurs with the House in recommending the budget estimate of $20,477,000 for the payment of participation sales insufficiencies.

The Housing Act of 1964, as amended by the Participation Sales Act of 1966, authorized the pooling of mortgages or other types of obligations of certain Government departments or agencies and the sale by the Government National Mortgage Association, as trustee, of beneficial interests, or participations, in such pools. The Participation Sales Act of 1966 also authorized the establishment of appropriations to cover the excess of interest payments to holders of participation certificates over the interest payments received from the pooled mortgages or other obligations. A permanent, indefinite appropriation is available to cover insufficiencies for sales authorized in 1967 while sales authorized in 1968 require annual appropriations.

Of the total provided, $14,619,000 is estimated to be needed for sales under the college housing loan program and $2,158,000 is intended for public facility loan program sales. An additional $4,264,000 will be provided through a permanent, indefinite appropriation to cover insufficiencies for sales authorized in 1967.

Community Planning and Development

COMMUNITY DEVELOPMENT GRANTS

1978 appropriation	$3, 600, 000, 000
1979 budget estimate	3, 750, 000, 000
House allowance	3, 750, 000, 000
Committee recommendation	3, 750, 000, 000

The Committee concurs with the House in recommending the appropriation of $3,750,000,000 for community development grants. The amount proposed is identical to the budget request.

Title I of the Housing and Community Development Act of 1974 replaced several HUD categorical programs with the community development block grant program. The primary objective of the program is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

The Housing and Community Development Act of 1977 changed the original single statutory formula for distributing funds to a dual formula which more accurately reflects the needs of older declining communities. At the same time, additional funding was authorized for nonentitlement communities to help smaller communities deal with their problems in a more comprehensive fashion.

The following table shows the currently projected distribution of community development funds for 1979 by recipient category. The final distribution of funds by recipient category will depend upon the submission and approval of applications for funding.

Recipient category	*Distribution of Appropriations*
Metropolitan areas:	
Entitlement/hold harmless	$2, 651, 760, 000
Discretionary balances	240, 000, 000
Subtotal, metropolitan areas	2, 891, 760, 000
Nonmetropolitan areas:	
Hold-harmless communities (sec. 106(h))	82, 000, 000
Discretionary balances	574, 690, 000
Subtotal, nonmetropolitan areas	656, 690, 000
Secretary's discretionary fund	101, 550, 000
Categorical program financial settlement fund	100, 000, 000
Total	3, 750, 000, 000

The Committee notes that administrative costs have eaten up as much as 75 percent of community development expenditures in some cities and consequently concurs in bill language adopted by the House placing a ceiling of 20 percent on annual nonprogram expenditures by any grant recipient.

The Committee once again commends the Department's willingness to commit funds to the completion of rehabilitation-oriented urban renewal projects, particularly the Pike Place Market restoration in downtown Seattle, Wash. While inflationary pressures have increased the cost of quality urban rehabilitation, the Committee considers investment in such projects to be good strategy toward meeting the administration goal of improving the quality of urban life. Accordingly, the Committee reemphasizes its belief that the Secretary should give the Pike Place Market and other such projects high priority under the categorical settlement program.

The Committee directs the Secretary, when determining the appropriate size for a neighborhood strategy area, to take into consideration the total area of the applicant city and approve the designation of larger areas than are normally designated as neighborhood strategy areas when appropriate.

URBAN DEVELOPMENT ACTION GRANTS

1978 appropriation	$400, 000, 000
1979 budget estimate	400, 000, 000
House allowance	400, 000, 000
Committee recommendation	400, 000, 000

The Committee concurs with the House in recommending the appropriation of $400,000,000 for the urban development action grant program. The amount provided is identical to the budget request.

The funding recommended by the Committee is restricted to cities and urban counties that meet minimum standards of physical and economic distress; have demonstrated reasonable results in providing housing for persons of low and moderate income, especially since 1974; and have demonstrated reasonable results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. Not less than 25 percent of the funds must be allocated for cities under 50,000 population which are not central cities of a metropolitan area.

In the words of the Housing and Community Development Act of 1977, the funds are to be allocated "in a manner which achieves a reasonable balance among programs that are designed primarily (1) to restore seriously deteriorated neighborhoods, (2) to reclaim for industrial purposes underutilized real property, and (3) to renew commerical employment centers." Despite this legislative mandate, more than 70 percent of the dollars distributed in the first round of grant awards, announced on April 6, went to commercial employment centers and less than 12 percent of the funds went to neighborhoods. The Committee is distressed by this glaring imbalance in fund distribution but is encouraged by an evident improvement in the second round of awards and directs the Department to implement the letter and the spirit of the authorizing legislation by encouraging and funding solid neighborhood applications under the program.

COMPREHENSIVE PLANNING GRANTS

1978 appropriation	$57,000,000
1979 budget estimate	57,000,000
House allowance	50,000,000
Committee recommendation	57,000,000

The Committee recommends an appropriation of $57,000,000 for comprehensive planning grants. This is $7,000,000 more than the House allowance and identical to the budget estimate.

The comprehensive planning grant program, authorized under section 701 of the Housing Act of 1954, provides grants to support State and local comprehensive planning and management programs concerned with urban and rural development. The Housing and Community Development Act of 1974, as amended, requires that grant recipients carry out land use and housing planning activities. Assistance may be provided to States, localities, areawide planning organizations, and Indian tribes. The Federal grant under the section 701 program may cover up to two-thirds of project costs.

The administration's budget includes an increase of $150,000,000 in the community development grant program and the Committee would expect a portion of this increase to be used for planning purposes as well. The following table indicates the impact the decision to increase funding will have on the fund distribution recommended by the House.

	House allowance	Committee recommendation
Recipient category:		
States	$12,000,000	$15,250,000
Metropolitan areawide planning organizations	18,000,000	23,000,000
Nonmetropolitan areawide planning organizations	10,000,000	10,000,000
Localities	9,000,000	7,750,000
Other (including Indian tribes)	1,000,000	1,000,000
Total	50,000,000	57,000,000

REHABILITATION LOAN FUND

1978 appropriation	
1979 budget estimate	[1] $245, 000, 000
House allowance	245, 000, 000
Committee recommendation	245, 000, 000

[1] Includes $150,000,000 requested in House Document 95–331.

The Committee concurs with the House in recommending the budget estimate of $245,000,000 for the rehabilitation loan fund. This total includes $150,000,000 requested as a part of the President's recently announced national urban policy.

Section 312 of the Housing Act of 1964, as amended, authorizes a program of 20-year, 3-percent loans for the rehabilitation of properties in urban renewal, code enforcement, CDBG, and section 810 urban homesteading areas. The rehabilitation work must make the property conform to applicable public standards, or correct physical hazards. Financial assistance for rehabilitation of residential and nonresidential property is authorized when financing cannot be obtained on comparable terms and conditions from other sources.

The amount recommended, together with an additional $30,000,000 in loan repayments and other income, should support about 26,000 dwelling units in both single family and multifamily residences.

These funds will be used to complement and support the larger community development grant rehabilitation effort in 1979. Localities making good efforts to carry out rehabilitation, using other than section 312 funds, will be given priority in the distribution of section 312 funds. Section 312 is also a useful tool in some communities where the amount of their community development grant does not justify the overhead of creating a completely new rehabilitation financing program.

The Committee notes that the rehabilitation loan program will more than triple in size over the next 12 months and urges the Department to avoid waste in the distribution of this greatly increased sum of money.

URBAN HOMESTEADING

1978 appropriation	[1]
1979 budget estimate	$20, 000, 000
House allowance	20, 000, 000
Committee recommendation	20, 000, 000

[1] Although $15,000,000 was appropriated for this program in fiscal year 1978, it was provided under the Federal Housing Administration Fund account.

The Committee recommends an appropriation of $20,000,000 for the urban homesteading program in fiscal year 1979. The amount suggested is identical to the budget estimate and the House allowance.

These funds would be used to reimburse the Federal Housing Administration Fund for the current market value of HUD-owned properties transferred for use in the program.

A local urban homesteading program must be a part of the coordinated approach toward neighborhood improvement which includes the upgrading of community services and facilities. A locality participating in the program must have an equitable procedure for selecting the recipients of the unoccupied residential property. This procedure must give special consideration to the recipient's need for housing and capacity to accomplish any necessary repairs and improvements.

HUD-owned properties are transferred through the local government to individuals or families without substantial monetary consideration subject to the following conditions:

The property must be their principal residence for at least 3 consecutive years;

Repairs required to meet the minimum health and safety standards for occupancy must be made prior to occupancy;

Additional repairs needed to meet applicable local standards for decent, safe, and sanitary housing must be made within 18 months after occupying the property; and

The recipient of the property must permit reasonable periodic inspection by the locality.

The budget estimates that approximately 3,200 properties will be transferred in 1979, for a cumulative total of 7,141. Through September 30, 1977, a total of 39 cities have been participating in the program on a demonstration basis. The program is open now to all qualified States, units of general local government, or their qualified agencies.

Federal Insurance Administration

FLOOD INSURANCE

1978 appropriation	$91,000,000
1979 budget estimate	114,000,000
House allowance	90,000,000
Committee recommendation	85,000,000

The Committee recommends an appropriation of $85,000,000 for the flood insurance program in fiscal year 1979. This amount is $5,000,000 below the amount provided by the House and $29,000,000 less than the budget estimate.

The National Flood Insurance Act of 1968, as amended, authorizes the Federal Government to provide flood insurance on a national basis. Flood insurance may be sold or continued in force only in communities which enact and enforce appropriate flood plain management measures. Communities must participate in the program within 1 year of the time they are identified as flood prone in order to be eligible for flood insurance and some forms of Federal financial assistance for acquisition or construction purposes.

The funding provided will be used for flood insurance studies and surveys to continue working toward the completion of detailed risk zone and elevation studies. The studies result in flood insurance rate maps which identify in a flood hazard area the degree of flood hazard and the resulting actuarial insurance premium rate applicable to each risk zone in the hazard area. Under the law, these studies are required before flood plain management measures can be made fully effective, before actuarially derived (as opposed to subsidized) insurance rates can be charged, and before full insurance coverage can be made available to purchasers of Federal flood insurance. This coverage is available on virtually all types of buildings and their contents in amounts up to $245,000 for residential structures and $550,000 for other buildings.

During the past 5 years, the Department has sought to complete studies and surveys for those flood-prone communities with the greatest populations and greatest potential losses. Generally, this priority system has meant the early initiation of most of the largest,

most complex, and costliest studies. By the end of 1979, detailed risk zone and elevation studies will have been completed or will be underway in a majority of the most critically flood-prone communities in the Nation.

The reduction proposed by the Committee will permit the flood survey program to continue at last year's level of funding since the Department did not utilize $6,000,000 provided by the Congress in fiscal year 1978 for the development of a remote sensing rate mapping system. In view of the fact that a great many large communities have been surveyed, the need for an accelerated level of support is not considered by the Committee to be acute.

Neighborhoods, Voluntary Associations and Consumer Protection

HOUSING COUNSELING ASSISTANCE

1978 appropriation	$5,000,000
1979 budget estimate	8,000,000
House allowance	10,000,000
Committee recommendation	8,000,000

The Committee recommends $8,000,000 for continued institutional support of private nonprofit counseling agencies to provide default and prepurchase counseling to actual or prospective homeowners under HUD-insured programs. This amount is the same as the budget request but $2,000,000 less than the House passed bill.

The objectives of default counseling are to cure defaults, avoid foreclosures, and reduce losses to the HUD mortgage insurance funds. Homeownership counseling provides guidance in the areas of money management, property care and maintenance, relief measures for defaulting mortgagors, referrals to community resources, and counseling followup. Default counseling enables homeowners to retain their homes and strengthens the family's economic status, which contributes to neighborhood stability and preservation. Past studies have proven that default counseling is cost effective, and therefore desirable as a way of reducing foreclosures and the subsequent financial drain placed on the FHA insurance funds when foreclosure occurs.

Prepurchase counseling prepares a potential homeowner for the financial responsibilities of homeownership and can play a useful role in discouraging unsuitable applicants for subsidies under the section 235 homeownership program. Consequently the Committee directs the Department to spend up to $1,000,000 on prepurchase counseling in connection with the section 235 program.

The Committee directs the Department to use a portion of this appropriation for training and technical assistance to nonprofit sponsors of section 202, housing for the elderly or handicapped, projects. This will increase the number of minority and community-based sponsors participating in the section 202 program.

Policy Development and Research

RESEARCH AND TECHNOLOGY

1978 appropriation	$52,000,000
1979 budget estimate	62,000,000
House allowance	56,000,000
Committee recommendation	59,000,000

The Committee recommends an appropriation of $39,000,000 for the Department's research and technology activities. The amount provided is $3,000,000 less than the budget estimate and $3,000,000 above the amount recommended by the House.

This appropriation is administered by the Assistant Secretary for Policy Development and Research, and it supports the Department's research, demonstration, economic analysis, and program evaluation activities. The program has been refocused on a limited number of areas that are of major concern to the Department. The new research agenda is directed to six departmental priorities: the cost of housing, alternative housing finance mechanisms, urban economic development and public finance, special users—elderly and handicapped, neighborhood reinvestment and revitalization, and site selection/integration.

Although the Committee perceives a substantial improvement in the functioning of the Office of Policy Development and Research under new and aggressive leadership, the proposed reduction seems reasonable. The Committee notes that the Department plans to spend $6,850,000 on research and analysis of the experimental housing allowance program in the coming fiscal year. In view of the assertion by the General Accounting Office that the program will not provide conclusive evidence to answer the principal research questions, the Committee believes a portion of the $3,000,000 cut recommended by the Committee can be taken in this area. The Committee suggests that a portion of the reduction also be taken from a questionable $1,500,000 program to improve the financial management capabilities of State and local governments.

The Committee directs the Department not to reduce its planned support for rural policy research and development as a result of the Committee's recommended cutback in the research and technology program.

The Committee directs HUD to provide the Housing Assistance Council with at least $850,000 for fiscal year 1979. In increasing the Council's funding by $150,000 over the level it has been receiving every year since fiscal year 1976, the Committee notes its understanding that HUD intends to seeks ways to substantially increase HAC's fiscal year 1980 funding level. Because of HAC's vital role in rural housing research and demonstration, the Committee expects HUD to provide for an expanded role for HAC in the future.

The Committee directs that none of the recommended budget cut be taken from the $8,500,000 proposed for Urban Reinvestment Task Force support. Legislation has passed the Senate and is pending in the House to convert the Urban Reinvestment Task Force into a congressionally funded public corporation, the National Neighborhood Reinvestment Corporation. The Committee directs the Secretary of HUD to transfer the unexpended balance of the $8,500,000 provided for the Urban Reinvestment Task Force to the National Neighborhood Reinvestment Corporation when and if legislation creating a National Neighborhood Reinvestment Corporation is enacted into law. Upon the creation of a National Neighborhood Reinvestment Corporation the Committee stands ready to consider requests for additional funding in supplemental appropriations legislation.

The Committee notes that legislation authorizing a three-month extension of the life of the National Commission on Neighborhoods

has been acted upon by the Senate. This extension, which is a part of the Housing and Community Development Amendments of 1978, authorizes the appropriation of an additional $500,000 for the work of the Commission. The Committee directs that $500,000 of the total amount provided in this account be transferred to the Commission following the enactment of the aforesaid authorization.

Management and Administration

Salaries and Expenses, Department of Housing and Urban Development

1978 appropriation	$462, 494, 000
1979 budget estimate	529, 825, 000
House allowance	521, 808, 000
Committee recommendation	526, 106, 000

The Committee recommends $526,106,000, including transfers of $250,255,000 from various Federal Housing Administration funds, for the salaries and expenses of the Department. The amount recommended is $3,719,000 and 45 positions less than the budget request as well as $4,298,000 and 165 positions above the House allowance.

This appropriation finances salaries and related costs associated with administering the programs of the Department of Housing and Urban Development. The individual budget activities are as follows:

1. Housing and mortgage credit programs. This activity includes staff salaries and related expenses associated with administering housing programs and the Government National Mortgage Association (GNMA).

2. Community planning and development programs. Funds in this activity are for staff salaries and related expenses required for administering community planning and development programs and new community assistance programs.

3. Equal opportunity, research, regulatory, and insurance programs. This activity includes the salaries and related expenses associated with implementing equal opportunity programs in housing and employment as required by law and Executive orders; the administration of research programs and demonstrations; the administration of counseling and neighborhood programs, the administration of the Federal flood, riot, and crime insurance programs; and the administration of consumer protection activities, primarily in the areas of interstate land sales, mobile home construction, and safety and real estate settlement procedures.

4. Departmental management, legal, and audit services. This activity includes a variety of general functions required for the Department's overall administration and management. These include the Office of the Secretary, Office of General Counsel, and Office of Inspector General, as well as administrative support in such areas as accounting, personnel management, contracting and procurement, and office services.

5. Field direction and administration. This activity includes the salaries and related expenses for the regional administrators, area office managers, and their immediate staffs who are responsible for the direction, supervision, and performance of the Department's field offices.

6. Disaster assistance. Funds under this activity include the salaries and expenses of the Federal Disaster Assistance Administration in coordinating the national disaster relief program. The funds are provided under the "Funds appropriated to the President" chapter of the budget and paid into this account as necessary.

The Committee has concurred with the following House reductions below the budget request:

—$1,000,000 in departmental travel funds;

—$500,000 for equipment, supplies, and materials;

—$200,000 and 10 positions for the urban extension program in recognition of the failure of the Congress to authorize this new activity

—$904,000 and 35 positions for the Office of Interstate Land Sale (20 positions), departmental management (5 positions), and field administration (10 positions); and

—$1,115,000 in recognition of the likelihood that the Department will hire personnel at a slower rate than the January budget submission projected.

The Committee has recommended the restoration of $1,200,000 o this amount cut by the House in the belief that the Department would hire personnel at a slower rate than assumed by the budget request. The Department has indicated that it will be necessary to hire at a rapid rate in the early part of fiscal year 1979 to meet its workload objectives and the Committee does not wish to unduly jeopardize that effort.

The Committee has also recommended the restoration of a $2,810,000 and 155 position reduction by the House in staffing for housing and community development programs. The Committee believes that the positions are an important component of the Department's effort to improve its management in these two areas and to avoid the waste and mismanagement that have plagued the Department in the past.

The Committee has recommended the restoration of a $288,000, 10 position cut by the House in staffing for policy development and research. The Committee notes that such a cut would reduce this staff below current levels.

Finally the Committee has recommended a Departmental representation allowance of $2,500, the amount requested in the administration's budget and provided in past years, rather than the $3,500 approved by the House.

FUNDS APPROPRIATED TO THE PRESIDENT

Federal Disaster Assistance Administration

DISASTER RELIEF

1978 appropriation	$450,000,000
1979 budget estimate	200,000,000
House allowance	200,000,000
Committee recommendation	200,000,000

The Committee recommends an appropriation of $200,000,000, for the disaster assistance program in fiscal year 1979, which is the same as the House allowance and the budget estimate.

Under the Disaster Relief Act of 1974, the Federal Government provides assistance to State and local governments, to individuals and to businesses in the event of a Presidentially declared emergency or major disaster.

The Committee notes that estimates of disaster costs in fiscal year 1979 have ranged as high as $384,000,000. Consequently additional funding may be required in further appropriations legislation. Since this is essentially an entitlement program, the Committee has no control over its ultimate cost.

TITLE II—INDEPENDENT AGENCIES

American Battle Monuments Commission

SALARIES AND EXPENSES

1978 appropriation	$6,463,000
1979 budget estimate	6,240,000
House allowance	6,240,000
Committee recommendation	6,240,000

The Committee recommends an appropriation of $6,240,000 for salaries and expenses of the American Battle Monuments Commission. This amount is identical to the budget estimate and the amount provided in the House passed bill.

The American Battle Monuments Commission administers, operates, and maintains 37 permanent American military cemeteries, memorials, and monuments in nine foreign countries and the United States. These monuments commemorate the achievements and sacrifices in battle of our Armed Forces since April 6, 1917. It is the responsibility of the Commission to control the erection of monuments and markers by U.S. citizens and organizations in foreign countries, and to design, construct and maintain our permanent military cemetery memorials on foreign soil.

Of the amount provided by the Committee, $6,200,000 will be used to administer, operate, and maintain the 37 permanent American military cemeteries, monuments and memorials both at home and abroad. The balance of the appropriation, or $40,000, will be used to erect a small monument on Saipan to the Americans who fought and died in the Marianas Campaign of World War II, in accordance with the Technical Agreement to the Commonwealth Covenant between the United States and the Northern Mariana Islands (Public Law 94–241).

Consumer Product Safety Commission

1978 appropriation	$39,144,000
1979 budget estimate	41,463,000
House allowance	40,000,000
Committee recommendation	40,000,000

The Committee recommends an appropriation of $40,000,000 for the salaries and expenses of the Consumer Product Safety Commission. This amount is identical to the amount recommended by the House and $1,463,000 below the President's budget estimate. At the same time, the amount provided by the Committee is $4,885,000 less than the Commission's own estimate of its budget requirements presented to the Congress independently as authorized by section 27(k) of the Consumer Product Safety Act, as amended.

The Commission was established by the Consumer Product Safety Act and began operations in May of 1973. The primary purpose of the Commission is to protect the public from the unreasonable risk of injury from consumer products.

As a regulatory agency, the Commission was established to assist consumers in evaluating the comparative safety of consumer products; to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and to promote research and investigations into the causes and prevention of product-related deaths, illnesses, and injuries.

In addition to administering the Consumer Product Safety Act, the Commission inherited responsibility for four existing laws which were previously administered by other Federal agencies and transferred to the Commission at its inception. These acts are the Federal Hazardous Substances Act, as amended; the Poison Prevention Packaging Act of 1970; the Flammable Fabrics Act; and the Refrigerator Safety Act.

In order to accomplish its objectives, the Commission has organized its programs into six major activities—hazard identification; hazard strategy analysis; regulatory development; information and education; compliance and enforcement; and administration. The Commission has also developed a set of five programs which address specific product hazards. They are fire and thermal burn hazards; electric shock hazards; chemical and environmental hazards/chronic; chemical and environmental hazards/acute; and mechanical hazards.

The Committee concurs with the House action reducing staffing for the "administration" activity in 1979 with one exception. The Committee believes that the Office of Internal Audit serves a useful oversight function and accordingly directs that the current staffing level of seven full-time positions be maintained, with a resultant 28-position decrease in administrative staffing levels rather than the 31-position decrease recommended by the House.

The Committee understands that it may be extremely difficult for the Commission to reduce total staffing levels by 28 positions in view of the fact that there are currently very few vacancies in the agency. Consequently, the Committee believes that it is reasonable to require that the reduction in the agency's personnel ceiling to a total of 872 positions (on the basis of a 28-position cut in administration) not be achieved until the end of fiscal year 1979. However the Committee expects the 28 administrative positions to be eliminated as soon as possible.

The Committee believes that the recommended cut of $1,463,000 below the President's budget should be absorbed in part by a reduction in travel and the elimination of contracts of questionable value with the National Bureau of Standards.

The Commission has shown no evidence which indicates that th. information and education activity has reduced product-related injuries. The Commission stresses the low cost per recipient for this information, but presents no hard information to prove that these programs are reducing injuries or are reaching intended audiencese Consequently the Committee directs that a portion of the proposed cut be taken in the President's request for the Commission's information and education activity.

The Committee notes that there has recently been a change in the leadership of the Commission which may well have a favorable impact on its productivity and effectiveness. The Committee stands ready to give sympathetic attention to additional funding for the Commission in fiscal year 1979 should concrete evidence of improved Commission performance be forthcoming.

The Committee is concerned about the findings contained in a January 1978 civil service report on the Commission's improper use of consultants and experts, and other improper personnel actions, as well as the slow manner in which the Commission is taking corrective action on these findings.

In addition to the 30 cases specifically identified in the report which involved either regulatory or legal violations, the report concluded that the Commission:

—Had failed to revise its merit promotion plan which the Civil Service Commission (CSC) found to be outdated and deficient in a November 1976 report,

—Had improperly used consultants and experts to circumvent competitive civil service procedures, and

—Had continued to use excepted appointees improperly.

The Commission's response to the CSC's report indicates that the Commission would not take action on at least eight of the 30 cases until a position classification specialist audited these positions, a task which it expected to complete by September 30, 1978—almost nine months after the CSC's report was issued. The Committee believes this nine-month period is too long, and views this delay as a measure of bad faith by the Commission in taking the necessary corrective actions.

The Committee is concerned with the Commission's failure to implement the necessary changes to its personnel activities to correct the problems identified by the CSC, and directs the Commission to accelerate its audit of the positions in question and report its findings and recommendations to the Committee by November 30, 1978.

Department of Defense—Civil

Cemeterial Expenses, Army

SALARIES AND EXPENSES

1978 appropriation	$5,000,000
1979 budget estimate	5,200,000
House allowance	5,100,000
Committee recommendation	5,100,000

The Committee recommends an appropriation of $5,100,000 for the cemeterial expenses of the Department of the Army. This amount is the same as the level of funding provided by the House and $100,000 below the budget estimate.

The Secretary of the Army is responsible for the operation and maintenance of both the Arlington and Soldiers' and Airmen's Home National Cemeteries, which, as of September 30, 1977, contained the remains of 184,809 Americans and covered over 627 acres. A total of 2,940 interments are projected for fiscal year 1979.

The appropriation recommended by the Committee will provide for land development for normal cemetery operations, including new gravesites, as well as for the construction of new buildings and the renovation of existing buildings and facilities. Almost 90 percent of the Department's fiscal year 1979 budget will be used for the operation and maintenance of the Arlington and the Soldiers' Home National Cemeteries, including support of 151 direct hire man-years and service contracts for security and maintenance activities. The

balance of the appropriation provided by the Committee will be used for administration, the repair of cemetery roads, and the preparation of a design for the exterior renovation of the Amphitheatre at Arlington Cemetery.

In concurring with the House reduction of $100,000 below the budget request, the Committee notes that the Agency has been able to achieve savings of $312,000 as a result of favorable security and ground maintenance service contracts—$137,000 more than the $175,000 savings originally estimated by the Department. Although the Committee recognizes that the additional savings in fiscal year 1978 were applied to partially finance unforeseen modifications in the design and construction of the 10,000 niche modular columbarium at Arlington Cemetery, the Department should be able to absorb at least part of the $100,000 cut through the continued use of these cost-effective service contracts in fiscal year 1979.

Environmental Protection Agency

The Environmental Protection Agency was created pursuant to Reorganization Plan No. 3 in December 1970 to coordinate and administer the Federal Government's effort to combat environmental pollution. The President's Reorganization Plan consolidated nine programs from five different agencies and departments into an independent agency and paved the way for EPA to assume the responsibility for major Federal environmental pollution abatement and control programs, including the development of environmental standards; monitoring and surveillance of pollution conditions; grant support for State and local water quality pollution control planning; direct Federal pollution control planning; grant support for State, regional, and local pollution control programs; and technical assistance to pollution control agencies and organizations. EPA also serves to reinforce efforts among other Federal agencies with respect to the impact of their operations on the environment, and is specifically charged with making public its written comments on environmental impact statements and with publishing its determinations when those show that a proposal is unsatisfactory from the standpoint of public health, welfare, or environmental quality.

In the last six years, the Congress has enacted 13 major pieces of environmental legislation and consequently broadened the mission and responsibilities of the agency substantially. As a result, EPA has increasingly become both a preventive public health agency as well as the Federal government's lead agency in mounting an integrated, coordinated attack on environmental pollution in cooperation with State and local governments. The agency is currently mandated to develop and implement abatement and control programs in the following areas: air, water quality, drinking water, solid wastes, toxic substances, pesticides, noise, and radiation. A brief examination of EPA's pollution control programs in each of these media follows.

AIR

The EPA's air program encompasses activities related to the development of control strategies and control programs, and the implementation of such programs to achieve air quality standards. The objective is accomplished in two ways: (1) state and local action is encouraged

by the provision of assistance in all areas of technical and policy matters; and (2) direct Federal action is taken in cases of State or local failure to fulfill the requirements of the Clean Air Act.

The Clean Air Act authorizes a national program of air pollution regulation, research, and enforcement activities. Major responsibility for the prevention and control of air pollution at its source rests with State and local governments, with EPA in a position to take action where and when the States and localities fail to carry out their respective responsibilities. The primary role of the Agency is to conduct research and development programs, ensure that adequate standards and regulations are established to meet environmental goals set under the Clean Air Act, support State and local control efforts, and develop an effective enforcement capability.

WATER QUALITY

The EPA's water quality program involves the following activities: (1) developing effluent standards for industrial dischargers; (2) managing the municipal wastewater facilities construction grant program; (3) assisting State and local agencies in developing water quality management programs; (4) assisting the States in implementing their water pollution control programs including implementation of delegated Federal responsibilities; (5) responding to major oil and hazardous materials spills; and (6) implementing numerous other provisions of the Clean Water Act and the Marine Protection, Research and Sanctuaries Act.

The principal legislative authority for the agency's water quality program is the Clean Water Act, which expanded the government's role in water pollution control, increased authorizations for funding the construction of publicly owned wastewater treatment plants, placed an increased emphasis on water quality management planning, and expanded the avenues for public participation in water quality policymaking.

DRINKING WATER

The EPA's safe drinking water program is the focal point for activities in the following areas: (1) developing and promulgating national drinking water standards; (2) assisting the States in assuming primary responsibility for monitoring and enforcing compliance with the national standards; (3) assuming Federal responsibility for monitoring and enforcing compliance with the national standards where the States fail to assume responsibility; (4) developing and promulgating regulations for controlling underground injection of wastes; (5) assisting States in assuming primary responsibility for implementing these regulations; (6) assuming Federal responsibility for implementing these regulations where the States fail to assume such responsibility; and (7) carrying out other provisions of the Safe Drinking Water Act.

The Safe Drinking Water Act of 1974 increased and expanded the Agency's initial legislative authorities and responsibilities to improve the quality of drinking water and to protect the public health and welfare. Although safety of drinking water is primarily the concern of State and local governments, the act requires EPA to establish primary

and secondary drinking water regulations specifying the maximum permissible bacteriological, chemical, and physical constituent levels necessary to protect the public health and welfare, and to assist, reinforce, and set standards for State and local efforts.

SOLID WASTES

In 1976 the United States generated an estimated six billion tons of solid waste, a figure which is expected to grow substantially in the next 15 years. The EPA is mandated to develop and implement a national program of resource recovery and conservation as well as the control of hazardous waste from its generation to ultimate disposal. The problem of solid waste disposal has grown to serious proportions in recent years as the nation increases its consumption of all materials, including hazardous substances.

The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, authorizes the EPA to conduct a national program of hazardous waste regulation and enforcement, control land disposal practices, support comprehensive solid waste management program planning, and fund solid waste research and demonstration projects. The two major goals of this legislation are to assure that all solid wastes are managed in a manner that will protect public health and the environment and to conserve natural resources directly and through the management, reuse or recovery of solid wastes.

PESTICIDES

EPA has the primary responsibility for regulating pesticides in order to insure that quality products are available to the public and that, when properly used, these products will provide effective pest control without unreasonable adverse effects on man or the environment. Specifically, through a premarket review of data on the safety and effects of pesticide products, EPA issues individual registrations to manufacturers based upon a finding that the product will perform as claimed on the label, and will not pose "unreasonable adverse effects" to man or the environment. The Agency's pesticide regulatory activities also include the establishment of tolerance levels for pesticides which occur in or on food; the monitoring of pesticide residue levels in food, humans, and nontarget fish and wildlife and their environments; and the investigation of pesticide accidents.

RADIATION

EPA's radiation program is designed to eliminate unnecessary health and environmental effects by limiting exposure to radiation from releases of radionuclides to the environment, medical and occupational uses of radiation, and non-ionizing radiation sources.

Since 1970 when the Agency was initially granted authority to help protect the public and the environment from the dangers of radiation, EPA's radiation protection authority has been supplemented by other legislation, such as the Federal Water Pollution Control Act, the Toxic Substances Control Act, the Safe Drinking Water Act and the Resource Conservation and Recovery Act of 1976. Also, the Clean Air Act Amendments of 1977 confer major new responsibiltiies on EPA's radiation program and provide major new authority for minimizing risk from potentially hazardous radiation exposures.

NOISE

The primary objective of EPA's noise program is to achieve an environment free from noise which jeopardizes health or welfare. To reduce the detrimental health and welfare effects of noise, the Agency develops regulations controlling noise emissions; provides technical assistance to strengthen State and local noise programs; and coordinates noise reduction and research activities throughout the Federal Government.

The Noise Control Act of 1972 is the authority for EPA's noise abatement and control program and allows EPA to regulate the noise emissions from new products identified as major sources of noise, other than aircraft. Emission standards may also be set for in-use equipment of interstate motor carriers and in-use equipment and facilities of interstate rail carriers. Finally, the Agency is authorized to require the noise labeling of certain products and to assist State and local governments to develop programs aimed at achieving ambient noise standards.

TOXIC SUBSTANCES

The toxic substances program at EPA involves activities relating to the identification and control of risks to human health and the environment posed by chemical substances. In fiscal year 1979 these activities will include the establishment of regulations to obtain testing data and other information on about 16 chemicals or groups of chemicals, completion of in-depth risk assessments of 10 chemicals, the initiation of hazard evaluations of about 18 additional substances and the development of control strategies and regulations involving chemical substances.

The Toxic Substances Control Act of 1976 is the basic authority under which EPA's toxic program operates. The Act authorizes the Agency to require industry to furnish information on human health and environmental effects of toxic chemical substances and empowers EPA to control the manufacture, processing, distribution, use, and disposal of chemical substances that may be hazardous to human health. The act applies to all chemicals except food additives, drugs, pesticides, tobacco, and nuclear material.

COMMITTEE RECOMMENDATIONS BY APPROPRIATION

Of the amounts approved in the following appropriation accounts, the Agency must limit transfers of funds between media to not more than 10 percent of the budget plan in the absence of Committee approval.

AGENCY AND REGIONAL MANAGEMENT

1978 appropriation	$72,846,000
1979 budget estimate	84,185,000
House allowance	[1] 84,185,000
Committee recommendation	84,185,000

[1] Includes $100,000 requested in House Document 95-331.

The Committee recommends $84,185,000 for agency and regional management, including associated staff and management activities at EPA headquarters and the 10 regional offices around the country.

This amount is identical to both the budget request and the level of funding provided by the House. A total of 1,937 permanent positions will be supported with this appropriation.

This appropriation supports the following functions:

(1) Agencywide policy direction and management including the salaries and expenses of the Office of the Administrator, those staff offices which report directly to the Administrator, and the Office of Planning and Management. The Office of Civil Rights, Legislation, Public Awareness, and the Administrative Law Judges are funded under this function.

(2) Agency support, including services to all program operations at EPA headquarters, Research Triangle Park, N.C., and Cincinnati, Ohio. Certain agencywide support costs which are managed at headquarters are also included under this function.

(3) Regional management including the salaries and expenses of the regional administrators and their staffs as well as support for the staff offices which report directly to these administrators. This account also provides funding for the regional management divisions which perform centralized administrative functions such as program planning and budgeting, personnel, and other service activities necessary at the regional level.

(4) Regional support, including common services which are provided in all of the regional offices such as local telephone service, office supplies, and other similar items.

The appropriation recommended by the Committee represents an increase of $11,339,000 and 69 positions over the level of staffing currently provided. These additional resources will go to augment central management staff increases required both in headquarters and in the regions as a result of other planned agencywide program increases next year. Of the 80 additional positions provided by the Committee, 55 are targeted for agency management.

The Committee recommends an agency representation allowance of $2,500, the amount requested in the administration's budget and provided in past years, rather than the $3,500 approved by the House.

RESEARCH AND DEVELOPMENT

1978 appropriation	$316,747,000
1979 budget estimate	324,128,000
House allowance	328,028,000
Committee recommendation	328,528,000

The Committee recommends $328,528,000 for EPA's research and development program in fiscal year 1979, which is $4,400,000 above the budget estimate and $500,000 above the amount approved by the House.

The Agency's research and development activity is designed to produce the scientific knowledge and data base for regulating, preventing and abating environmental pollution, with particular emphasis on problems of air and water pollution control, drinking water and radiation protection, solid and toxic waste management, pesticides control, and energy-related environmental research and development. EPA conducts its research and development program through grants, contracts, and agreements with universities, industries, non-profit organizations, State and local governments, and other Federal agencies. Also the Agency conducts research at its own laboratories and field stations located around the country.

The Committee concurs with the House in recommending the deletion of $2,000,000 for contractual efforts and $4,000,000 for monitoring and technical support activities from the administration's budget request.

The Committee recommends the deletion of funding added by the House for integrated pest management ($2,500,000); increased research on health and ecological effects ($3,400,000); aquatic weed control research ($800,000); and mosquito control research ($600,000).

The House deleted $8,000,000 and 22 positions provided for anticipatory research in the administration's budget request. The Committee recommends the restoration of $6,000,000 of this reduction as well as the full 22 positions deleted by the House. The Committee further directs that $1,100,000 of this amount be spent on groundwater research at the Robert S. Kerr Environmental Research Laboratory in Ada, Okla. The Committee believes that the provision of this support for groundwater research under the anticipatory research program makes the $1,100,000 added by the House for groundwater research unnecessary and consequently recommends the deletion of these funds.

The Committee concurs with the House in adding $1,500,000 for Great Lakes research, restoring this program to the current level of $3,600,000.

The Committee concurs with the House addition of $8,000,000 for research and demonstration of the reuse of wastewaters for agricultural purposes. The Committee feels that the application of wastewater effluent for land treatment offers great potential in water short areas of the country. The Committee recommends that Northglenn, Colo., receive these research and demonstration funds to construct an integrated storage, supply and wastewater treatment operation. This total project concept will provide a model for future "double use" of water in water deficient areas of the United States.

Finally the Committee has added $5,400,000 for continuation of the Chesapeake Bay program with $2,900,000 provided in this account and $2,500,000 in the abatement and control account. This represents the third year funding of an authorized 5 year research program of the Nation's largest estuary.

While the recommended fiscal year 1979 funding will not accommodate all of the research that EPA had planned for continuation of the Chesapeake Bay program, these funds will permit the EPA to move ahead toward completion of its three major research projects: eutrophication, toxics, and submerged aquatics.

Again, the Committee is disturbed that the OMB has not permitted EPA to assign an adequate number of full-time employees to administer this program of national significance. The Committee directs EPA to assign its full-time personnel to field offices located on the Bay. The Committee further directs that the citizen participation program be coordinated through the EPA field locations on the Bay. It has become apparent that this program cannot be properly administered from the distant regional office of EPA.

The Committee directs that from within available funds, $135,000, shall be utilized for equipment and installation of four additional water quality monitoring stations on the Ohio River, and $140,000 shall be available for 7-day-per-week operation of these, and seven other stations already in place. The Committee understands that the

Ohio River Valley Sanitation Commission will match the funds provided for these operations.

ABATEMENT AND CONTROL

1978 appropriation	$513,573,000
1979 budget estimate	[1] 664,929,000
House allowance	664,115,000
Committee recommendation	710,940,000

[1] Includes $46,960,000 requested in House Document 95–331.

The Committee recommends an appropriation of $710,940,000 for EPA's abatement and control activities, which is $46,011,000 above the budget request and $46,825,000 above the amount recommended by the House.

The agency is responsible for the government's major environmental pollution abatement and control programs which include the development of environmental standards; the monitoring and surveillance of pollution conditions; grant support for State and local water quality pollution control planning; technical assistance to pollution control agencies and organizations; and assistance to Federal agencies in complying with environmental standards and insuring that their activities have minimum environmental impact. EPA also provides support for the training of personnel engaged in pollution control activities. Programs within the Abatement and Control appropriation include activities in the following media: air, water quality, drinking water, solid waste, pesticides, toxic substances, radiation, and noise.

Significant increases in abatement and control funding requested by the administration and approved by the Committee include:

—$11,400,000 for the development of new source performance standards under the air program,
—$6,100,000 for air mobile source standards,
—$21,400,000 to reimburse the Corps of Engineers for providing an estimated 600 workyears for supervision and management in the construction phase of waste treatment facilities,
—$12,500,000 for the Clean Lakes Program,
—$11,900,000 for State grants for the development of hazardous waste programs and comprehensive solid waste plans,
—$10,400,000 to permit EPA to initiate the development of 1,400 generic chemical standards for pesticides, and
—$15,100,000 for further implementation of the Toxic Substances Control Act.

In addition to these budgeted increases, the Committee recommends a number of add-ons for programs that are essential to the environmental well-being of the Nation. While the House added $25,000,000 to the budget estimate for air quality maintenance planning and solid waste grants, the Committee recommends an increase of $50,000,000, with $35,000,000 of the total being earmarked for air quality planning under section 175 of the Clean Air Act Amendments of 1977. This increase, together with the budget request of $25,000,000, and an additional $8,000,000 to $10,000,000 forthcoming through a memorandum of agreement with the Department of Transportation, will result in an air quality planning program of approximately $70,000,000 in fiscal year 1979. The remaining $15,000,000 is to be used for State program resource assistance under section 4008(a)(1) of the Resource Conservation and Recovery Act.

The Committee also recommends an increase in State control agency resource supplementation under the Clean Air Act of $10,000,000, providing a total program of $85,000,000 in fiscal year 1979. The significant increase over the current level of $66,000,000 should help the States to meet the new demands placed on them by the Clean Air Act Amendments.

The Committee disagrees with a House cut of $25,000,000 in the budget estimate for areawide waste treatment planning under section 208 of the Federal Water Pollution Control Act and recommends the restoration of $14,000,000 of the amount cut. The total recommended, together with a carry-forward of $11,000,000 from the current fiscal year, will allow the agency to conduct a $50,000,000 section 208 grant program in fiscal year 1979. The Committee directs the agency to put particular emphasis on pollution from nonpoint sources under the section 208 program since this is virtually the only agency program dealing directly with the problem.

In view of the importance of the section 208 program to helping municipalities address areawide water management problems, the Committee will consider any supplemental funding necessary to meet the Federal commitment to improved water quality management.

The Committee recommends the addition of $2,300,000 and 60 positions to the budget estimate for the dredge and fill program under section 404 of the Clean Water Act of 1977. Approximately 20,000 permit applications are received each year and the dollars and positions provided should augment the agency's ability to adequately review major permit applications.

The Committee recommends the addition of $2,500,000 for contract support for the implementation of section 301(h) of the Clean Water Act. Additional funds are necessary for EPA to properly evaluate information provided by coastal municipalities in support of waivers for secondary treatment requirements.

The Committee recommends the addition of $1,500,000 for academic training and directs the agency to report no later than January 1, 1979 on its evaluation of the supply of professional environmental manpower over the next decade and on available graduate training resources. The report should contain conclusions and recommendations as to the proper role of the agency in resolving these problems.

The Committee recommends the addition of $2,500,000 for continuation of the Chesapeake Bay program, which is discussed in more detail under the research and development account.

The Committee recommends concurrence with House increases of $211,000 for continuing an environmental impact study of powerplant operation on the Poplar River in Montana and $3,000,000 for the Great Lakes program, together with the restoration of a minimum of 14 positions to the program. The agency is to draw these positions from lower priority activities, other than activities specifically earmarked in this report, if the additional positions are not forthcoming from the administration.

The Committee recommends the deletion of $10,000,000 from the budget request of $52,400,000 for State control agency resource supplementation under the Clean Water Act. The Committee notes that an estimated $30,000,000 in funds not previously available will be provided to the States under the waste treatment construction grant program through a recent amendment which allows States to use 2

percent of construction grant funds for administrative purposes. The availability of this additional support should allow state agencies to absorb the recommended reduction without undue hardship.

The Committee recommends concurrence in a House reduction of $2,000,000 in the budget request for abatement and control personnel costs because of an unrealistic lapse rate estimate by the agency. The Committee also recommends agreement with a House reduction of $3,000,000 in costs connected with an interagency agreement with the Corps of Engineers based on a reestimate of the costs of the agreement.

Finally the Committee recommends the deletion of funding added by the House for an environmental impact study of natural resource development in the Flathead River Basin of Montana ($400,000); an in-place toxic pollutants study for the removal, treatment and management of deposits of polychlorinated and polybrominated biphenyls in the Saginaw and Pine Rivers of Michigan ($275,000); and additional certification review activity under the mobile source emission certification and testing program ($300,000).

The Committee has learned that in seeking information relevant to section 308 of the Federal Water Pollution Control Act, 33 U.S.C. section 1318, the EPA has served upon some 600 businesses a financial and economic questionnaire which may exceed the statutory limits of its authority. The forms contain numerous questions which the Committee believes are instrusive and unreasonable.

To date the EPA has distributed the questionnaire to the wood-preserving, ore mining, and nonferrous metal manufacturing industries in the United States, and 19 other industries will receive similar questionnaires. The forms demand disclosure of almost every type of confidential financial information maintained by the businesses. Under the threat of severe penalties, including criminal sanctions, these businesses have been required to reveal specific production costs and profitability information for each of their plants, information that is obviously extremely sensitive from a competitive standpoint. It is the view of the Committee that these questions demand information that the Administrator of the EPA may not "reasonably require" to carry out his statutory responsibilities under section 308.

The EPA has limited authority to protect the confidentiality of responses to these questionnaires. The risk of exposure of this information to competitors and others is substantial. The agency should not request sensitive financial information until it can assure the confidential treatment of the data collected.

The questionnaire was not submitted for approval to the Office of Management and Budget as required by the Federal Reports Act, 44 U.S.C. section 3509, prior to its distribution to industry. This procedure was complied with only after repeated inquiries by the business community.

The Committee recognizes that the EPA needs relevant economic information in order to establish standards which are meaningful to all parties, but the Committee believes this agency is ill-advised to inquire into the intimate financial details of a business when these details have at best only a peripheral relevance to the Federal Water Pollution Control Act.

The EPA earlier this year proposed amendments to its regulations under the Safe Drinking Water Act to limit certain organic chemicals sometimes found in trace amounts in drinking water. The Committee notes that there are divisions of thought in the scientific community as to whether a health risk exists which would justify these proposals, as well as serious questions concerning the cost, effectiveness, and potential health hazards of the granular activated carbon systems which the EPA would require be installed. The Committee further notes that many water providers believe they will be unable to meet the financial burdens placed on them by these regulations unless rates to their customers are raised—in some cases multiplied.

The cost of these regulations could be almost $1,000,000,000 by the EPA's own estimate, or up to $4,000,000,000 or $5,000,000,000 by other estimates. Already some have argued that, if these regulations become final, federal financial assistance will have to be provided. Therefore, the Committee wishes to take this opportunity to express its own concerns.

The Committee questions whether final promulgation of these regulations within the near future might be premature, in that the evidence to support the EPA's proposals may not justify their issuance. In view of the growing public awareness of government inspired inflationary pressures, and although the Committee has not marshalled the expertise to make its own scientific judgment in this area at this time, the Committee urges the EPA, before going ahead with these costly regulations, to complete the research and make the difficult, balanced judgment to inspire the confidence of knowledgeable persons who must meet the requirements and pay the costs.

ENFORCEMENT

1978 appropriation	$70, 837, 000
1979 budget estimate	[1] 95, 555, 000
House allowance	94, 555, 000
Committee recommendation	94, 755, 000

[1] Includes $700,000 requested in House Document 95–331.

The Committee recommends $94,755,000 for EPA's enforcement program in fiscal year 1979. This amount is $800,000 below the budget estimate and $200,000 above the amount provided by the House.

The enforcement efforts of the Environmental Protection Agency are an integral part of the Agency's program of controlling environmental pollution. Much of the EPA's enforcement activities are in support of or in cooperation with State and local enforcement initiatives in such areas as air quality standards, navigable and interstate water quality standards, and issuance of pollution discharge permits. Enforcement responsibilities dovetail with those under the abatement and control account, focusing on air, water quality, drinking water, solid waste, pesticides, toxic substances, and noise. The Agency uses a number of enforcement methods to deal with environmental pollution, including such actions as notices of violation, abatement orders, civil and criminal court actions and, in the case of pesticides, recalls and seizures.

The Committee concurs with the House reduction of $1,000,000 in the budget request on the basis of a staff-year lapse rate higher than the level assumed in the budget.

The Committee recommends the addition of seven positions and $200,000 to assist the States in developing their own dredge and fill permit programs under section 404 of the Clean Water Act of 1977. This support is in addition to $177,000 and eight positions requested in the administration's budget and approved by this Committee for this program.

The Committee notes that a total of $10,600,000 out of the recommended increase of $23,718,000 over last year's budget will be directed toward insuring compliance by the remaining major source violators under the Clean Air Act Amendments of 1977.

BUILDINGS AND FACILITIES

1978 appropriation	
1979 budget estimate	$2,563,000
House allowance	1,063,000
Committee recommendation	1,063,000

The Committee concurs with the House in recommending $1,063,000 for buildings and facilities, which is $1,500,000 below the budget estimate.

EPA currently occupies space in 23 separate existing Federally owned facilities, most of which are laboratories or other special purpose installations. This appropriation provides support for the design and construction of new EPA facilities as well as necessary repairs, improvements, and alterations to Federal installations which are occupied by the Agency.

As noted in the House report, as of July 1, 1978, the unobligated balance available under this account was $2,839,000, despite the fact that no funds were provided for construction in last year's bill. Consequently, the Committee believes that the amount recommended should be more than adequate to carry out EPA's building and facilities program in fiscal year 1979. Apparently EPA agrees because there was no appeal of the House cut.

CONSTRUCTION GRANTS

	Appropriations	*Liquidating cash*
1978 appropriation	$4,500,000,000	($5,000,000,000)
1979 budget estimate	4,500,000,000	(1,400,000,000)
House allowance	4,200,000,000	(1,400,000,000)
Committee recommendation	4,500,000,000	(1,400,000,000)

The Committee recommends an appropriation of $4,500,000,000 for the waste treatment construction grant program, which is $300,000,000 above the House passed bill and identical to the budget estimate.

The municipal wastewater facilities construction grants program provides 75 per cent Federal financial assistance to municipal, intermunicipal, State, and interstate agencies to assist in financing the planning, design, and construction of municipal wastewater treatment facilities. The President's fiscal year 1978 budget recommended

a 10-year, $45,000,000,000 program to meet water quality requirements established in the Federal Water Pollution Control Act, as amended. The amounts provided by the Committee will continue this effort to bring municipalities into compliance with water quality standards set forth in the Act and will be focused on areas which have the most critical water quality needs.

Amounts made available for obligation are allotted to each State on the basis of formulas set forth in the Federal Water Pollution Control Act and subsequent amendments. Within these allotments, grants are awarded on a priority basis for individual projects.

In addition to the $18,000,000,000 provided under the authority of the Federal Water Pollution Control Act Amendments of 1972, additional appropriations of $480,000,000 in the Public Works Employment Act (P.L. 94–447); $1,000,000,000 in the Supplemental Appropriations Act of 1977 (P.L. 95–26); and $4,500,000,000 in the Supplemental Appropriations Act of 1978 (P.L. 95–240) have previously been provided for waste treatment construction projects.

In fiscal year 1979, the Agency plans to continue its interagency agreement with the Corps of Engineers providing 600 work-years for step three construction management, in an effort to allow EPA to focus more resources on step one planning management, where there is the greatest potential for improving the cost effectiveness and environmental impact of projects.

Although the Committee sympathizes with the position of the House regarding EPA's failure to adequately monitor the use of grant funds for advanced wastewater treatment (AWT) in the past, the Committee believes that the requirement set forth in the House Report that the Administrator personally determine that AWT facilities are needed in the future may place an impossible burden on the Administrator. Consequently the Committee directs that the Administrator personally review all such proposals only when the incremental cost involved is in excess of $1,000,000.

The Committee recognizes that savings should be achieved by a more rigorous application of AWT standards but has provided the full budget request for this program in the belief that these savings should be used to accelerate the cleaning up of our Nation's waters.

Section 205(e) of the Clean Water Act of 1977 provides that no State shall get less than one-half of 1 percent of the total allotment available for all the States under the construction grant program. However the House-passed bill specifically excludes the use of the funds provided to implement this section of the law. Twelve States are affected by this action and would receive very small allotments. The increase that would be provided by the application of the Section 205(e) provision to those 12 States would provide them with a more viable and effective program for controlling municipal pollution problems. Consequently the Committee recommends that the bill as passed by the House be amended to strike the section 205(e) exclusion.

The following table sets forth the distribution of the funds provided by state and territory, as recommended by the Committee:

RECOMMENDED ALLOCATION OF FISCAL YEAR 1979 CONSTRUCTION GRANT FUNDS

	Section 205(c) allocation	Section 205(e) allocation	Sections 205 (c) and (e)
Alabama	56, 988, 314		56, 988, 300
Alaska	18, 793, 451	3, 394, 804	22, 188, 300
Arizona	34, 422, 858		34, 422, 900
Arkansas	33, 340, 072		33, 340, 000
California	352, 846, 506		352, 846, 500
Colorado	40, 768, 699		40, 768, 700
Connecticut	49, 133, 671		49, 133, 700
Delaware	17, 732, 853	4, 455, 402	22, 188, 300
Dist. of Columbia	14, 169, 419	8, 018, 836	22, 188, 300
Florida	170, 254, 918		170, 254, 900
Georgia	86, 170, 307		86, 170, 300
Hawaii	35, 181, 697		35, 181, 700
Idaho	21, 975, 247	213, 008	22, 188, 300
Illinois	230, 504, 905		230, 504, 900
Indiana	122, 825, 304		122, 825, 300
Iowa	57, 480, 893		57, 480, 900
Kansas	39, 064, 641		39, 064, 600
Kentucky	64, 869, 582		64, 869, 600
Louisiana	56, 025, 343		56, 025, 300
Maine	33, 260, 194		33, 260, 200
Maryland	123, 264, 631		123, 264, 600
Massachusetts	131, 097, 085		131, 097, 000
Michigan	183, 301, 612		183, 301, 600
Minnesota	82, 944, 134		82, 944, 100
Mississippi	42, 867, 708		42, 867, 700
Missouri	110, 750, 456		110, 750, 400
Montana	15, 407, 524	6, 780, 731	22, 188, 300
Nebraska	24, 429, 300		24, 429, 300
Nevada	18, 362, 999	3, 825, 256	22, 188, 300
New Hampshire	39, 095, 705		39, 095, 700
New Jersey	158, 490, 705		158, 490, 700
New Mexico	16, 947, 389	5, 240, 866	22, 188, 300
New York	471, 318, 475		471, 318, 500
North Carolina	87, 900, 991		87, 901, 000
North Dakota	13, 787, 781	8, 400, 474	22, 188, 300
Ohio	286, 916, 325		286, 916, 300
Oklahoma	41, 176, 963		41, 177, 000
Oregon	57, 574, 084		57, 574, 000
Pennsylvania	193, 552, 586		193, 552, 600
Rhode Island	23, 306, 543		23, 306, 500
South Carolina	52, 213, 401		52, 213, 400
South Dakota	16, 565, 751	5, 622, 504	22, 188, 300
Tennessee	68, 721, 463		68, 721, 400
Texas	193, 632, 463		193, 632, 400
Utah	19, 778, 610	2, 409, 645	22, 188, 300
Vermont	17, 062, 768	5, 125, 487	22, 188, 300
Virginia	86, 986, 834		86, 986, 800
Washington	78, 493, 170		78, 493, 200
West Virginia	79, 447, 300		79, 447, 300
Wisconsin	86, 547, 507		86, 547, 500
Wyoming	13, 326, 265	8, 861, 990	22, 188, 300
Guam	3, 301, 612		3, 301, 600
Puerto Rico	52, 071, 396		52, 071, 400
Virgin Islands	1, 677, 432		1, 677, 400
American Samoa	2, 733, 593		2, 733, 600
Trust Territory Pacific Islands	6, 789, 606		6, 789, 600
Total	[1] 4, 437, 651, 000	[1] 62, 349, 000	4, 500, 000, 000

[1] Rounded to nearest $100.

The Committee is aware of a sludge treatment process which is being demonstrated in various sections of Europe and of the interest in this process by certain communities in northeast Oklahoma and other parts of this country. We understand that the Environmental Protection Agency would be interested in evaluating alternate and innovative technology.

The Committee originally considered providing funds to demonstrate this innovative approach, but rejected such a provision not

only because of a concern over the growing Federal deficit, but because a mechanism already exists in law to afford the demonstration of such an approach.

Under the Clean Water Act Amendments of 1977, section 202(a)(2) provides for 85 percent Federal grants for innovative or alternative wastewater treatment processes and techniques. As of October 1, 1978, this provision of the Clean Water Act becomes effective and communities may begin to apply to their respective States for funds under section 201(g)(5), under the regular application process.

The Committee urges EPA regional offices and States to work with communities intending to apply for funds under these sections so that as these communities become eligible for funding on their respective State's priority lists, their applications will move smoothly to funding.

The Committee concurs with the House in recommending the budget estimate of $1,400,000,000 in liquidating cash for fiscal year 1979. These funds will allow EPA to fund obligations already entered into under section 203 of Public Law 92–500.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL CURRENCY PROGRAM)

1978 appropriation	$4, 000, 000
1979 budget estimate	4, 000, 000
House allowance	2, 500, 000
Committee recommendation	2, 500, 000

The Committee recommends an appropriation of $2,500,000 to purchase excess foreign currencies from the Treasury Department for the financing of cooperative environmental research activities in excess currency countries such as Pakistan, Egypt, and India. This amount is the same as the House allowance and $1,500,000 below the budget estimate for scientific activities overseas.

The appropriation provided by the Committee will allow EPA to engage in research programs with foreign agencies and institutions that are designed to seek solutions to environmental issues, such as the control of effluents from synthetic fiber and chemical plants; industrial utilization of water from municipal sewage treatment plants; and the ecological and health effects of selected pesticides. The scientific activities overseas program also conducts technology transfer seminars dealing with topics such as the environmental aspects of marine pollution, reclamation of strip mined lands, and management of environmental programs.

Although the Committee acknowledges that this program has helped to stimulate environmental protection activities in participating countries and bolstered the interrelationship of U.S. and foreign scientists, the Committee agrees with the House that $2,500,000 should adequately meet the resource requirements of the program in light of the availability of $3,653,000 in unobligated funds as of July 1, 1978.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

1978 appropriation	$2, 854, 000
1979 budget estimate	3, 126, 000
House allowance	2, 926, 000
Committee recommendation	3, 026, 000

The Committee recommends an appropriation of $3,026,000 for salaries and expenses of the Council on Environmental Quality. This amount is $100,000 above the House allowance and $100,000 less than the budget estimate.

The Council's assigned duties and responsibilities are contained in the National Environmental Policy Act, the Environmental Quality Improvement Act of 1970, and Executive Order 11514, as amended by Executive Order No. 11991 and Reorganization Plan No. 1 of 1977.

The Council analyzes important environmental conditions and trends; reviews and appraises Federal Government programs having an impact upon the environment; recommends policies for protecting and improving the quality of the environment; assists in coordinating Federal environmental programs which involve more than one agency; assists in the preparation of the President's annual report to the Congress; and undertakes special studies and analyses relating to environmental issues.

The Committee directs that the $100,000 reduction in the Council's budget request be applied primarily to other services, including contract studies. Despite the reduction in contract studies, the Council's capability to provide the President with independent policy advice on environmental issues should not be impaired.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SALARIES AND EXPENSES

1978 appropriation	$2,800,000
1979 budget estimate	2,621,000
House allowance	2,476,000
Committee recommendation	2,476,000

The Committee recommends an appropriation of $2,476,000 for the salaries and expenses of the Office of Science and Technology Policy (OSTP). This figure is the same as the amount provided by the House and $145,000 below the budget estimate.

OSTP was created by the National Science and Technology Policy, Organization, and Priorities Act of 1976 (Public Law 94–282). The Office provides advice to the President concerning Federal science and technology policies and the utilization of science and technology in addressing important national problems. Also, OSTP provides support to other organizations within the Executive Office of the President on issues with a science and technology orientation; reviews and analyzes the research and development budgets for all Federal Agencies, in cooperation with the Office of Management and Budget; and helps to coordinate the research and development programs of the government.

In reducing the Office's budget by $145,000 the Committee concurs with the House decision that this reduction should result from a cutback of $55,000 in personnel compensation and benefits, a reduction of $40,000 in travel, and a cutback of $50,000 in contract costs.

The Committee has also concurred with language in the bill which would reduce the amount requested by the Office for representation allowances by $500—from a requested level of $1,500 to $1,000. This amount is the same as the level of funding recommended by the House and should provide the Office with adequate resources for representation and reception activities in fiscal year 1979.

The Committee directs OSTP to evaluate the value and relevance of the multi-billion dollar independent research and development programs being financed by the Defense Department and the National Aeronautics and Space Administration. The Committee also directs OSTP to review the usefulness and practicality of the objective oriented classification system proposed by the General Accounting Office as a tool for analyzing each year's Federal research and development budget requests. The Committee expects a report on both of these topics from OSTP in conjunction with the submission of the fiscal year 1980 budget request next January.

Finally the Committee has become aware of the lack of a centralized source of comprehensive information regarding the content of federally supported research projects currently underway as well as the results of already-completed research funded with Federal dollars. The Government's failure to maintain such a centralized data system makes it difficult if not impossible for a project manager in a given agency to know whether a specific research proposal is duplicative of work currently funded or previously supported by another Federal entity. In fact, the Federal Government currently is not in a position to tell the American taxpayer, whether lay or professional, what his taxes have purchased in a particular scientific subspecialty. Consequently the Committee directs OSTP to work with the research components of all Federal agencies to devise such a centralized system and report to the Committee on the progress being made in establishing this system by March 1, 1979.

General Services Administration

CONSUMER INFORMATION CENTER

1978 appropriation	$4,700,000
1979 budget estimate	1,186,000
House allowance	1,166,000
Committee recommendation	1,146,000

The Committee recommends an appropriation of $1,146,000 for the Consumer Information Center. This amount is $40,000 below the budget estimate and $20,000 less than the House allowance.

The Center is primarily responsible for encouraging the development of consumer product information by the major Federal agencies and departments as a result of the Government's research, development, and procurement activities. In addition, the Center is charged with promoting greater public awareness of existing Federal publications through wide dissemination to the general public of the consumer information catalog as well as the distribution of consumer publications.

The Committee notes that there will be a substantial reduction in the Center's budget in fiscal 1979 because the costs of distributing consumer publications, which are currently being paid by the Center, will be borne by the agencies providing the publications in the coming fiscal year. This reallocation of costs will not only result in a reduction of more than $3,500,000 in the Center's budget, but should also reduce the amount of travel performed by Center officials to the Government Printing Office's Pueblo, Colo., facility to oversee operations, especially in view of the fact that after an initial period of heavy consultation, the Pueblo facility seems to be operating at a high level of

efficiency. Consequently the Committee suggests that the Center should be able to reduce travel to the level initially proposed in the fiscal year 1978 budget with resultant savings of as much as $7,000.

The Committee believes another $22,000 in savings can be achieved by eliminating a yearly public opinion poll to test the degree of consumer interest in a number of proposed publication topics. Although the Committee recognizes the importance of determining consumer interests it also believes that a great deal of information should be available on this subject from consumer organizations as well as the agencies providing the publications distributed by the Center. Furthermore, after eight years of experience, the Center itself should be in a position to determine consumer interests without a costly yearly survey.

These two reductions, when added to a House cut of $20,000, based on a greater than anticipated staff-year lapse rate, would result in potential savings of $49,000. However the Committee has recommended a cut in the Center's budget of only $40,000 in order to give the Center some flexibility in implementing the suggested economies.

Department of Health, Education, and Welfare

OFFICE OF CONSUMER AFFAIRS

1978 appropriation	$1,750,000
1979 budget estimate	1,737,000
House allowance	1,700,000
Committee recommendation	1,700,000

The Committee recommends $1,700,000 for the salaries and expenses of the Office of Consumer Affairs (OCA) in the Department of Health, Education, and Welfare. This amount is the same as the House passed figure and $37,000 less than the budget estimate.

OCA was established by Executive Order 11583 on February 24, 1971. The office provides staff support to the Special Assistant to the President for Consumer Affairs and advises Federal agencies on consumer-related policies and programs. The Office encourages and assists in the development of new consumer programs; makes recommendations to improve the effectiveness of Federal consumer programs; cooperates with State agencies and voluntary organizations in advancing the interests of consumers; promotes improved consumer education; handles consumer complaints; recommends legislation and regulations of benefit to consumers; and encourages productive dialog and interaction between industry, government and the consumer.

OCA told the Committee in March that in fiscal year 1977 a total of $80,000 was turned back to the Treasury and that $13,000 of this amount represented a reduction in travel. Therefore the Committee suggests that at least $13,000 of the $37,000 budget reduction be applied to travel with the balance targeted for lower priority activities at OCA in fiscal year 1979.

It is also clear to the Committee, on the basis of the agency's testimony and subsequent meetings with its officials, that its actual resource requirements for fiscal year 1979 remain vague. A full understanding of OCA's 1979 responsibilities awaits the implementation

of the administration's plans to reorganize the government's consumer effort. Thus, although the Committee believes OCA can absorb a reduction of $37,000 without affecting its ability to carry out its current consumer representation mission, the Committee is prepared to consider an Administration request for supplemental funding should a further definition of the resource needs of the office in fiscal year 1979 indicate the desirability of an increase above the level recommended by the Committee.

National Aeronautics and Space Administration

RESEARCH AND DEVELOPMENT

1978 appropriation	$3,013,000,000
1979 budget estimate	3,305,100,000
House allowance	3,292,200,000
Committee recommendation	3,295,700,000

The Committee recommends an appropriation of $3,295,700,000 for research and development activities at the National Aeronautics and Space Administration (NASA). This amount is $3,500,000 above the House allowance and $9,400,000 below the budget estimate.

NASA conducts the nonmilitary space programs of the United States, including the exploration of space and its utilization for peaceful purposes, and conducts advanced research and development related to space and aeronautics in support of both civil and military requirements. The research and development program at NASA consists of the following activities:

Space transportation systems—Space transportation systems activities provide all the transportation and related capabilities required to conduct space operations. The fiscal year 1979 request for Space transportation systems, a total of $1,827,700,000, is primarily committed to the continuing development of the Space Shuttle system, but it also includes incremental funding for the procurement of a four-orbiter fleet.

Space sciences—The space sciences program utilizes space systems, supported by extensive ground-based and airborne observations, to conduct a broad spectrum of scientific investigations. The objective is to advance our knowledge of the Earth and its atmosphere, the Moon, the Sun, the inner and outer planets, interplanetary and interstellar space, and the other stars of our galaxy and the universe.

A significant new space science initiative will be the solar polar mission, a joint project with the European Space Agency to send two spacecraft, launched from the Space Shuttle in 1983, past Jupiter, using the gravity of that planet to achieve a trajectory that will permit study of the polar regions of the Sun for the first time. This program will cost $13,000,000 in fiscal year 1979 and from $190,000,000 to $230,000,000 in total.

The second year of space telescope development will see the program move into high gear with a $79,200,000 investment. The Jupiter orbiter/probe will also consume an increasing share of the space science budget—$78,700,000—in its second year of funding.

Although the Committee notes that the House has diverted funds from the solar polar mission, the space telescope and the Jupiter orbiter/probe to set up a space shuttle reserve, the Committee does

not concur in this decision but rather directs NASA to come before the Committee to justify the need for any additional space shuttle funding.

Space and terrestrial applications—The space and terrestrial applications program uses space, aircraft, and ground-based systems to identify and demonstrate the useful application of space techniques in the areas of Earth resources detection and monitoring, Earth dynamics monitoring and forecasting, ocean condition monitoring and forecasting, environmental quality monitoring, climate research, weather observation and forecasting, materials processing in space, and space communications. The program includes activities to accelerate the dissemination to both the public and the private sectors of advances achieved in NASA's research, technology and development programs.

Two major new initiatives in this program next year will be: (1) a halogen occultation experiment to improve our ability to monitor pollution of the upper atmosphere, costing a total of $20,000,000 to $26,000,000 and an initial $6,100,000 in fiscal year 1979; and (2) an Earth radiation budget satellite system which will contribute to climate research by acquiring data on the energy change between the Earth's atmosphere and space as well as other atmospheric factors important to climate research efforts at a cost of $8,000,000 in fiscal year 1979 and between $70,000,000 and $85,000,000 in total.

Aeronautics and space technology—The aeronautics and space technology program is intended to acquire the fundamental knowledge and to develop the technology needed to maintain United States leadership in aeronautics and space. The program also provides for identification and evaluation of elements of NASA's aeronautics and space technology which can benefit the national energy program.

In fiscal year 1979 the aeronautics program will place an emphasis on the revitalization of the nation's research and technology base, the reservoir of basic knowledge necessary for the development of new aeronautical products. It will also focus on improvements in aircraft energy efficiency, including advances in laminar flow control technology.

Tracking and data acquisition—Tracking and data acquisition funding is for a worldwide program to support deep space, earth orbital, suborbital, and aeronautical programs. In fiscal year 1979 the system will support an average of approximately 60 earth orbital scientific and applications spacecraft and the deep space network supporting a full complement of planetary missions.

In future years a major aspect of the program will be the tracking and data relay satellite system (TDRSS), which will support essentially all earth orbital spacecraft missions and should greatly improve NASA's tracking and data acquisition capabilities.

The Committee is disturbed by recent reports that indicate NASA's decision to lease TDRSS rather than purchase the system outright may be a significant factor in TDRSS cost escalation. The Committee directs NASA to carefully monitor the cost and performance implications of the leasing decision with the understanding that the Committee may wish to receive a comprehensive report on the subject after TDRSS has been deployed.

The Committee has taken the following actions in arriving at the total figure of $3,295,700 for Research and Development:

Included the $4,000,000 added to the budget by the House for the fifth orbiter.

Denied the $4,000,000 added to the budget by the House for the Stereosat program, because Stereosat was not authorized by the Senate authorization committee.

$5 million of the $7,000,000 added to the budget by the House for advanced programs has been denied. The remaining $2,000,000 is for development of the 25 kilowatt power module to support longer duration shuttle flights.

Denied the $3,000,000 added by the House for the solar satellite power generating system.

Denied the $7,000,000 added by the House for aeronautical research.

The House reduced the budget estimate for Tracking and Data Acquisitions by $1,400,000 for the Search for Extraterrestrial Life. The Committee agrees with the House in denying these funds and, in addition, denies a further $600,000 which was included under Space Science, Research and Analysis in the budget estimate for the same project.

The House reduced the budget estimate by $10,000,000 for Development, Test and Mission operations. The Committee agrees with the House to the extent of denying $3,000,000 of this sum.

The House reduced the budget estimate for Expendable Launch Vehicles by $5,000,000. The Committee agrees with the House to the extent of denying $2,500,000 of this sum.

The Committee agrees with the House in denying $1,000,000 of the budget estimate for Tracking and Data Acquisition activities.

The House denied the $20,500,000 requested for development of the Teleoperator Retrieval System. While the Committee has included the $20,500,000 for a speed-up of the Teleoperator Retrieval System to accommodate its application to a Skylab reboost or deorbit mission, NASA is directed not to obligate these funds before making a determination that it is feasible to undertake an attempt to reach Skylab in orbit. Should NASA decide to not attempt a Skylab reboost or deorbit mission using the Teleoperator Retrieval System, then NASA is directed to submit a recission proposal to the Congress for that portion of the $20,500,000 associated solely with the Skylab reboost or deorbit mission, retaining the remaining sum, which shall be less than one-half of the total, for ongoing development of the Teleoperator Retrieval System.

Denied the budget request for $5,700,000 for lunar sample analysis and expects that the National Science Foundation will entertain applications for this activity. The Committee does not wish, however, to cause an interregnum in this program and, therefore, expects that NASA will continue to support, from available funds, the more promising on-going lunar sample analysis on a short-term basis while new funding mechanisms, in cooperation with NSF, are established.

Denied $1,200,000 of the $8,800,000 requested under Space Flight Operations for commencement of procurement of a second spacelab from the European Space Agency (ESA). This funding reduction assumes successful negotiation of the Spacelab Barter Agreement between NASA and ESA.

CONSTRUCTION OF FACILITIES

1978 appropriation	$160,940,000
1979 budget estimate	152,500,000
House allowance	134,690,000
Committee recommendation	148,500,000

The Committee recommends an appropriation of $148,500,000 for NASA's construction of facilities program. This amount is $13,810,000 above the House allowance and $4,000,000 below the budget estimate.

This appropriation provides for contractual services for the design, major rehabilitation, and modification of facilities; the construction of new facilities; minor construction; the purchase of related equipment and advance design related to facilities planned for future authorization.

The funding recommended for 1979 will permit the continuation of prior year's endeavors in meeting the facilities requirements for the space shuttle program; construction and modification of large aeronautical research and development facilities; and construction, rehabilitation, and modification of other facilities to maintain, upgrade and improve the usefulness of the NASA physical plant; and facility planning and design activities. The program for fiscal year 1979 includes the third increment of funding for two large aeronautical facilities, the construction of a National Transonic Facility at the Langley Research Center and modification of the 40- by 80-foot subsonic wind tunnel at the Ames Research Center.

While the House denied the budget request for $12,810,000 for the second phase of pad "B" launch complex at the Kennedy Space Center, the Committee has included these funds because of the importance of having this back-up shuttle support facility tested and operationally ready in time to support space shuttle operations should any difficulty develop at the prime launch pad. The House also denied $5,000,000 in rehabilitation and modification funds. The Senate agrees with the House to the extent of denying $4,000,000 for these projects.

RESEARCH AND PROGRAM MANAGEMENT

1978 appropriation	$844,000,000
1979 budget estimate	914,000,000
House allowance	907,000,000
Committee recommendation	914,000,000

The Committee recommends the appropriation of $914,000,000 for research and program management, which is $7,000,000 over the House allowance and the same as the amount requested in the President's budget.

The research and program management appropriation provides for: (1) the civil service staff comprising the direct civil service personnel needed to perform in-house research, technology, and test activities; and the personnel needed to plan, manage, and support the research and development programs; and (2) the other elements of operational capability of the laboratories and facilities. Over three-fourths of this appropriation covers salaries and benefits of civil service employees. The balance is required for travel, facilities services, technical services, and management and operations support of all NASA installations.

In supporting the full budget estimate, the Committee is aware that NASA has dramatically decreased its personnel in the past few years and that the present budget estimate will support only the fiscal year 1978 personnel level.

National Commission on Air Quality

SALARIES AND EXPENSES

1978 appropriation	
1979 budget estimate	$4,000,000
House allowance	2,000,000
Committee recommendation	2,000,000

The Committee concurs with the House in recommending the appropriation of $2,000,000 for the salaries and expenses of the National Commission on Air Quality. The amount provided is $2,000,000 less than the budget estimate.

The Commission was created by the Clean Air Act Amendments of 1977 to study and report to the Congress on a number of issues related to the achievement of national air quality goals. The Commission is composed of four members of the House and Senate together with nine public members appointed by the President.

Since the Commission did not become operational until July 21 it is most difficult to determine whether the Commission can usefully obligate the $4,000,000 requested. Consequently a reduction of $2,000,000 in the budget request for the Commission seems sensible pending further information regarding the Commission's needs.

National Institute of Building Sciences

SALARIES AND EXPENSES

1978 appropriation	$1,000,000
1979 budget estimate	
House allowance	1,000,000
Committee recommendation	500,000

The Committee recommends an appropriation of $500,000 for the salaries and expenses of the National Institute of Building Sciences (NIBS). This amount is $500,000 above the budget estimate and $500,000 below the level of funding approved by the House.

NIBS was created under Section 809 of the Housing and Community Development Act of 1974 (P.L. 93-383) as a nonprofit, nongovernmental entity, designed to develop and maintain nationally recognized building performance criteria for the maintenance of life, safety, health, and the public welfare. The basic mission of NIBS is to provide a more effective use of resources to improve the quality of the built environment by encouraging and ensuring the rapid and widespread introduction and acceptance of new and improved building science and technology. This mission will be implemented through activities and programs intended to generate confidence in and acceptance of NIBS as the nationally recognized source of building technology information. It is to be hoped that this effort will result in the eventual adoption of procedures and practices in the building industry that will lead to a system of performance criteria, standards, and other regulatory provisions suitable for adoption in building codes.

Major activities planned by NIBS for the first five years of its existence include: development, promulgation, and maintenance of performance criteria and standards; evaluation and prequalification of existing and new building technology; planning a research agenda and supporting investigations and special studies as well as the assembly, storage, and dissemination of technical data and other information. The Institute has recently organized a consultative council and initiated liaison with the building industry.

Although the Committee salutes the goals of this organization, it is deeply concerned over a salary structure which pays the President of NIBS as much as the Vice President of the United States and provides total yearly pay of $170,000 for NIBS's three vice-presidents. This seems particularly inappropriate in an organization with a total staff of 16. If the private sector wishes to support this salary structure, of course the Committee has no objection. However the Committee is unwilling to provide a substantial level of support for this sort of expense in view of the fact that NIBS is a relatively untried organization, and in the absence of a Presidential budget request. Consequently the Committee suggests that NIBS prove itself in the marketplace, so to speak, by making up the difference between the $2,000,000 it requested the Committee to provide and the $500,000 recommended through contracts with Federal agencies as well as the private sector.

National Science Foundation

1978 appropriation	$861, 300, 000
1979 budget estimate	934, 000, 000
House allowance	893, 900, 000
Committee recommendation	927, 000, 000

The Committee recommends an appropriation of $927,000,000 for the activities of the National Science Foundation in fiscal year 1979. This figure represents a $7,000,000 reduction below the budget request and $33,100,000 more than the amount recommended by the House.

The Foundation is an independent agency which is authorized to support basic and applied research, science and technology policy research, and related scientific and science education programs to promote the progress of science in the United States. The Foundation is granted authority under the National Science Foundation Act of 1950, as amended, and operates through grants and other forms of assistance such as contracts, and cooperative agreements awarded to universities, nonprofit organizations, and other research entities.

The Foundation is a major source of basic research support within the Federal Government and is the leading Federal supporter of basic research at academic institutions. It has been estimated that over the past 10 fiscal years, NSF funding for basic research has more than doubled. Its support of basic research at colleges and universities was approximately 39 percent of the Federal total in fiscal year 1977.

At the same time, the Foundation attempts to provide a balance to its basic research effort through a program of applied science and research. The goal of the applied research activity at NSF is to focus scientific and technological capabilities on current and emerging problems of national significance and shorten the time between basic sci-

entific discoveries and their application to the solution of fundamental problems among the general public.

Also, the Foundation conducts a program of science education, which is designed to foster broadened participation in science by both those planning careers in science and by the public in general.

RESEARCH AND RELATED ACTIVITIES

1978 appropriation	$783,200,000
1979 budget estimate	850,400,000
House allowance	806,400,000
Committee recommendation	846,400,000

The Committee recommends a total of $846,400,000 for research and related activities, which is $40,000,000 above the amount provided by the House and $4,000,000 below the budget estimate. This appropriation provides support for all of the Foundation's programs with the exception of the science education program and activities financed with excess foreign currencies.

The Foundation has structured its basic research program into three directorates—mathematical and physical sciences and engineering; astronomical, atmospheric, earth, and ocean sciences; and biological, behavioral, and social sciences—plus a separate account for the U.S. Antarctic program.

The Committee recommends a total of $649,600,000 for the three basic research directorates, which is $4,000,000 below the budget request, and $51,300,000 above the current estimate for fiscal year 1978.

An appropriation of $266,300,000 is recommended for the mathematical and physical sciences and engineering directorate, which represents $20,300,000 more than the amount currently available for these activities. Among the activities planned by the Foundation under this directorate in fiscal year 1979 are: an increased emphasis on computer research in nonnumeric computing and intelligent systems; conversion of the Cornell University synchrotron to a colliding beam facility for advanced research in elementary particle physics; and improved instrumentation at the materials research laboratories.

The amount recommended is $2,000,000 below the budget estimate in conformance with action taken by the authorizing committees.

The Committee recommends a total of $225,300,000 for astronomical, atmospheric, earth and ocean sciences. This amount is $15,200,000 more than the current estimate for fiscal year 1978. Under this directorate, the Foundation plans to pursue the following activities in fiscal year 1979: greater operation of the partially completed very large array radio telescope and the ionospheric modification facility at the National Astronomy and Ionosphere Center; planning for a possible new ocean margin drilling program; increased support for geochemistry instrumentation; and increased basic research on coastal processes as well as the construction of a 125- to 140-foot coastal research ship.

The amount recommended is $2,000,000 below the budget estimate in conformance with action taken by the authorizing committees.

The Committee notes that a reduction of $5,700,000 intended for lunar sample analysis has been made in the National Aeronautics and Space Administration's budget. The intent of the reduction was to eliminate special funding for this program in view of the availability

of $24,100,000 in funding for geology, geochemistry, and geophysics in the fiscal year 1979 NSF budget. Consequently the Committee directs the NSF not to reduce funding for these three programs below the fiscal year 1979 budget estimate and to entertain proposals for lunar sample analysis. These proposals are to be evaluated competitively with other applications for funds for basic research in the geological sciences.

The Committee has approved $158,000,000 for biological, behavioral, and social science activities, which is $15,800,000 above the current estimate for fiscal year 1978 in this area. Activities planned under this directorate next year include: support for biochemical, cellular, and physiological research in the plant sciences; biosafety facilities and research needs involving the use of recombinant DNA techniques; studies of key aspects of behavior; interdisciplinary research on cognitive science; and the impact of governmental decisions on the economy; and the development of models for assessing the impact of various factors on the quality of life.

The National Science Foundation is responsible for all U.S. activities in Antarctica. This includes the management and support of four year-round research stations and the ships and aircraft required to carry out the research program. The Committee recommends an appropriation of $50,700,000 for the Foundation's support of the U.S. Antarctic program, which is $2,500,000 above the current estimate of funding for this effort in fiscal year 1978. In fiscal year 1979, the Foundation plans to pursue additional research on Antarctic marine living resources; investigations of the Antarctic ice sheet and global tectonic processes; and atmospheric phenomena.

After a year-long reassessment of the agency's applied research effort, the Foundation has replaced the former research applied to national needs (RANN) directorate with the applied science and research applications program (ASRA).

The Committee recommends an appropriation of $67,000,000 for ASRA, which is $9,100,000 above the amount currently available to NSF for its applied research program.

The activities of the new ASRA directorate are designed to: (1) more sharply focus Foundation attention on a selected number of research application areas within which NSF can make a unique contribution; (2) strengthen the links between the basic research program and the applied research activities of NSF; (3) improve the ties between research applications and user groups in State and local governments, private industry, and Federal mission agencies, and (4) provide a funding source for high-quality applied research proposals from the scientific community where such research falls outside the scope of the Foundation's basic research program, the focused research mission of the ASRA directorate, or the research programs of other mission agencies. Among the activities planned by the Foundation under this program in fiscal year 1979 are: initiation of an integrated basic research program aimed at accelerating work on promising areas of basic research relevant to existing or emerging major problems; increased support for high-quality applied research in the physical, mathematical, and biological sciences; and increased emphasis on the Federal earthquake hazards mitigation research effort, and on toxic chemicals, community water management, and alternative biological sources of materials.

Recent evidence of the possibly significant relationship between diet and health has occasioned much concern about the presently retarded state of interdisciplinary research concerning nutrition. There is general consensus that increased research funding by a number of Federal agencies will be necessary to overcome the serious research deficit which hampers effective program design. NSF is directed to establish within ASRA, a competitive grants program in nutrition research at the approximate level of $3,000,000 to contribute to the solution of this problem.

The Committee is concerned that emphasis upon "integrated basic research" in the ASRA directorate not become a means of converting funds intended for applied research into basic research support. Applied research traditionally is a minor portion of the total NSF mission, but it is nevertheless important, and it is of direct and immediate benefit to many citizens. Accordingly, NSF is directed to take whatever steps are necessary to ensure that funds administered by the ASRA directorate are not channeled into pure basic research.

The scientific, technological, and international affairs (STIA) directorate at the Foundation supports international cooperative activities, conducts and supports policy research, collects data and prepares policy and data analyses, supports information science research, and carries out planning and evaluation studies.

The Committee recommends $24,300,000 for STIA, which is $300,000 less than the current level of funding for this directorate in fiscal year 1978.

Among the activities planned for STIA in fiscal year 1979 are: (1) continued support to provide U.S. scientists with bilateral and multilateral programs that increase access to foreign scientific developments with emphasis on broadening contacts with Western Europe; (2) strengthening programs of studies and analyses focused on socioeconomic effects of science and technology, innovation processes, and the interaction of the environment, energy, and resources; and (3) expanded study of the nation's human and financial resources for scientific and technological activities.

The Committee recommends an appropriation of $54,800,000 for the Foundation's program development and management activity. This amount is $2,800,000 more than the current level of funding. This funding provides for the operation, support, management and direction of all NSF programs and activities and includes necessary funds to develop, manage and coordinate these program activities. It includes salaries and operational expenses of NSF staff and all expenses of the National Science Board.

The Committee has concurred with the House decision to reduce the Foundation's representation allowance from $5,000 to $3,500 in an attempt to bring the allowance into line with the allowance provided other major agencies funded by the bill.

The NSF has recently begun a review of its practices and procedures in supplying research equipment to determine how changes can be made both at the Foundation and at universities to facilitate more efficient use of equipment. The Committee commends this initial effort. However, the Committee encourages the Foundation to consider establishing a system to transfer "retired" or unused equipment to research laboratories or teaching facilities where it

can be used constructively. It is quite possible that an item which is deemed obsolete for one experiment could be quite useful to another, particularly if the scientist who might use the equipment has no other means of obtaining the gear that he needs.

The Committee further directs the Foundation's attention to two additional matters that are important to management of the research dollar. The first is the need to consider the consulting activities of senior investigators seeking NSF research support. Though the question of consulting activities of research scientists may not have been an essential parameter for consideration in the past, the Foundation must recognize that this is no longer the case, particularly if the research involves policy analysis, is likely to be used in policy analysis, or has some commercial significance. The Committee therefore stipulates that NSF adopt appropriate precedures to avoid conflicts of interest which could arise as a result of the consulting arrangements of scientists performing NSF-sponsored research, and implement these procedures prior to January 1, 1979.

The second matter involves Federal support of faculty salaries at rates that exceed the maximum rates payable to Government scientists at the GS–18 level. The Committee has addressed this problem in its reports of earlier years, and has pointed out both the questionable propriety of decreasing the relative attractiveness of scientific positions in the Government and the questionable need to further augment the powerful nonmonetary incentives for academic scientists to obtain NSF research grants. A recent study, funded in part by the NSF, found that 8 percent of the academic scientists who responded had total incomes which exceeded the maximum salaries for GS–18 scientists in the Government. The Committee sees little merit in the payment of any salaries, through NSF grants, at rates in excess of the maximum pay rate for GS–18 employees, and has therefore included a provision in the bill setting a GS–18 ceiling on the rate of pay under NSF grants and contracts.

The Committee also notes that the Foundation supported about 3,000 man-years of senior scientist salaries, at a cost of over $78,000,000 in fiscal year 1978 through project grants made by its three basic research directorates. This is an increase in time of 7.7 percent, and an increase in cost of 15 percent, over 1977. The Committee would recommend that NSF make every effort to avoid increasing the amount of university faculty time supported through its grants, so as to limit the dependency of the universities on the Government for their ongoing expenses.

The Committee commends the Foundation for its excellent initial effort to publish the results of research conducted under NSF sponsorship, which appeared as a document entitled "Summaries of Projects Completed in fiscal year 1977." The Committee directs that in the future NSF (1) Take particular care to present this information in terms that are meaningful to laymen, and (2) present the information in a consistent format including the dates of initiation and termination of each grant together with the cost of the grant to the taxpayer.

The Committee is concerned that no formal means for evaluating the research performed with NSF grants exists. It is true that much research is published in professional journals, but there is no systematic means of critically evaluating these research reports unless other

scientists take it upon themselves to initiate critiques of published work. In any event, the publication of research and any subsequent criticism of the research usually lag due to delays in publication schedules while research funding decisions go forward. Publication of research in itself should not constitute evidence of successful performance, since it is the quality and not the activity of the research which is important. NSF is directed to initiate a program of postresearch evaluation on a pilot basis and to report the results of that pilot program to the Committee within 6 months of the date of this report.

The Committee directs NSF to give particular attention to its Office of Audit and Oversight, which was formally established in October 1977 to help strengthen the Foundation's management and program accountability. It is responsible for auditing the full range of procedures used by NSF from the time a proposal is received through the decisionmaking process and post-award administration, including financial audits. It also has responsibility for evaluating these procedures and recommending improvements.

The Foundation is directed to report to the Committee within six months of the enactment of this appropriation concerning its evaluations and recommendations to date, as a result of the work of this recently established Office.

The Committee is concerned that to many knowledgeable observers the Federal research project system appears to have become overly complex, burdensome and less responsive to the needs of the Nation. The instruments of support; their terms and conditions; applications, reporting and recordkeeping requirements, all cumulatively may place an unreasonable burden on granting agencies and universities alike. In the Committee's view it is time for a comprehensive, objective review of the funding relationships between the Federal Government and the research universities that conduct Federal research programs if we are to insure the continued maximum effectiveness and accountability in the use of Federal research funds.

Therefore, the Committee is pleased to note that the Association of American Universities and several other national associations broadly representative of the American scientific community will soon establish a national commission to study these matters and, within a reasonable period, to formulate specific recommendations. This effort may have implications Government wide, beyond the purview of this committee. Therefore, the Committee, and we hope others, will follow the work of the Commission with interest. We urge the Foundation and all funding agencies to cooperate fully with this important effort.

SCIENCE EDUCATION ACTIVITIES

1978 appropriation	$73,200,000
1979 budget estimate	77,600,000
House allowance	82,600,000
Committee recommendation	77,600,000

The Committee recommends $77,600,000 for the NSF's science education program in fiscal year 1979, which is the same as the budget estimate and $5,000,000 below the amount approved by the House.

The National Science Foundation supports a number of science education activities which are principally designed to foster broadened

participation in science for those who plan science-related careers and to stimulate increased understanding of science and technology and its role in meeting national needs among the general public. Through a series of grants and fellowships, the Foundation's science education program seeks to provide appropriate kinds of scientific and technical manpower; strengthen institutional capabilities for science and engineering instruction; improve techniques for the teaching of science; and promote the use of technological advances for instruction.

In fiscal year 1979, the Foundation's science education effort is intended to increase support aimed at the broader understanding of science by all citizens, but particularly at the junior high level. Emphasis will also be placed on participation by minorities, women, and the handicapped in science-related fields. NSF plans to continue support for improvement in the quality of science instruction at two- and four-year colleges; and to establish additional resource centers for science and engineering designed to promote increased participation in science and engineering by minorities and persons from low-income families. Also, the agency plans to continue to improve understanding and interaction between scientists and nonscientists in the resolution of ethical, social, and public policy issues connected with science and technology.

Despite the fact that the Committee has deleted the $5,000,000 added by the House for Undergraduate Research Participation, Student Originated Studies and Instructional Scientific Equipment, the Committee directs the Foundation to utilize $2,000,000 from within the amount recommended for a continuation of the Undergraduate Research Participation program.

Although the Foundation supports the development and evaluation of science education course materials and curricula through this appropriation, the Committee notes that in many instances, the completed science education products have not been effectively and efficiently disseminated to the target population for whom they were developed. It has been brought to the attention of the Committee that one of the principal reasons for this failure has been the lack of grantee consultation with the publishing community prior to the development of these materials. The failure of the agency to involve publishers during the development of a curriculum has often resulted in increased costs as well as delay in the actual dissemination of the material. For example, in 1960, the NSF awarded $3,200,000 to a west coast university to enable instructors to improve their teaching methods and to prepare students for college level chemistry courses. However, in order to get the program implemented and to find a publisher for it, an additional $4,600,000 was spent between 1961 and 1975, bringing the total cost of the program to $7,300,000—more than double the initial development cost.

In another case, between 1966 and 1975 NSF spent $11,000,000 for the development and dissemination of a comprehensive science course for grades one through eight, of which $6,700,000 was spent to find a publisher and to train public school teachers how to use the materials. A General Accounting Office audit later showed that only about 5 percent of the target schools were actually using the curriculum.

The Committee believes that if publishers provided technical and practical assistance to course material developers at the outset of the development process, much waste and delay could be avoided. No publisher produces instructional materials without intense consultation with curriculum experts and the Committee feels that, conversely, the developers of course materials should not develop their programs without some consultation with publishers. Therefore, the Committee encourages the NSF to urge applicants for curriculum development funds to consult with the educational publishing community before producing instructional materials.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

1978 appropriation	$4,900,000
1979 budget estimate	6,000,000
House allowance	4,900,000
Committee recommendation	3,000,000

The Committee recommends $3,000,000 for the NSF's scientific activities overseas program in fiscal year 1979. This amount provided is $3,000,000 below the budget estimate and $1,900,000 less than the House allowance.

The NSF's scientific activities overseas program uses U.S.-owned excess foreign currencies to support cooperative scientific projects, seminars, and the travel of U.S. and foreign scientists involved in mutually beneficial efforts. Support is also provided for the translation, publication, and dissemination of foreign scientific and technical information considered to be of interest to the U.S. scientific community. Plans for the fiscal year 1979 program include support for projects of importance to the Joint Commissions for Economic Cooperation that the United States has established with Egypt and India, and the continued translation of foreign science literature into English.

The Committee decision to make a reduction of $3,000,000 in this account is in conformance with the action taken by the Senate authorizing committee.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

1978 appropriation	$6,300,000
1979 budget estimate	9,500,000
House allowance	7,045,000
Committee recommendation	7,045,000

The Committee concurs with the House in recommending $7,045,000 for the salaries and expenses of the Selective Service System in fiscal year 1979. This amount is $2,455,000 below the budget estimate, and essentially puts the System's level of funding at the fiscal year 1978 level plus an allowance for inflation.

The basic mission of the System is to be prepared to supply to the armed forces manpower adequate to ensure the security of the United States during a time of national emergency.

In October, 1977, the Secretary of Defense for Manpower, Reserve Affairs and Logistics provided the Selective Service Director with a reassessment of the projected wartime manpower requirements for

the Department of Defense. According to recent testimony, these more demanding requirements included first delivery of military manpower within 30 days, 100,000 inductees within 60 days and 650,000 inductees within 180 days. This compares with the Service's previous capability of providing a first delivery of manpower for induction in 110 days and 100,000 inductions in 150 days.

At the same time, the President's Reorganization Task Force is currently undertaking a study of the System's organization and management which will examine, among other things, the ability of Selective Service to meet DOD manpower requirements under conditions of rapid mobilization and the possibility of merging the System with DOD. Furthermore the Senate Armed Services Committee has requested the Secretary of Defense to submit, by December 31, 1978, a study assessing the costs and consequences of a number of alternatives to the current structure of the all-volunteer force. These alternatives include mandatory selective service registration at age 18 and a standby system to classify registrants in the event of mobilization.

In view of the uncertainty surrounding the role of the System and the existence of options ranging from a merger of the System with DOD, which could be expected to cut costs, to a reinstatement of mandatory registration, which would greatly increase costs, the Committee agrees with the House that the best course to follow is to keep the System in place at current levels of activity pending a final determination as to its future.

Department of the Treasury

Payments to State and Local Government Fiscal Assistance Trust Fund

1978 appropriation	$6,854,924,000
1979 budget estimate	6,854,924,000
House allowance	6,854,924,000
Committee recommendation	6,854,924,000

The Committee recommends the full budget request of $6,854,924,000 for payments to the State and Local Government Fiscal Assistance Trust Fund. This amount is identical to the level of funding provided by the House.

The Fund was established by the State and Local Fiscal Assistance Act of 1972 and renewed under P.L. 94–488, the State and Local Fiscal Assistance Amendments of 1976, to provide general revenue sharing payments to States and localities to supplement revenue sources. These payments are made at least quarterly, with one-third of the funds appropriated going to the States and two-thirds to local jurisdictions to carry out general purpose governmental functions.

At the present time, some 36,583 units of general purpose government, plus all 50 states, the District of Columbia, 3,082 counties, 17,803 municipalities, 15,390 towns and townships, and 257 Indian tribes and Alaskan native villages are eligible to receive revenue sharing funds.

It should be noted that general revenue sharing is essentially an entitlement program and that the Committee has little authority to control the level of general revenue sharing appropriations. However, the authorizing legislation requires that annual appropriations be made by the Congress, through the regular appropriations process.

ANTIRECESSION FINANCIAL ASSISTANCE FUND

The current authorization for antirecession financial assistance expires on September 30, 1978. However, legislation has been proposed recently that would change the existing program substantially. Therefore, the Committee has concurred with the House in deferring consideration of the budget request of $1,040,000,000 pending enactment of authorization legislation. As the proposed new program is a major component of the President's urban policy, funding may be considered in a supplemental appropriation bill.

OFFICE OF REVENUE SHARING, SALARIES AND EXPENSES

1978 appropriation	$7,500,000
1979 budget estimate	7,493,000
House allowance	7,200,000
Committee recommendation	7,200,000

The Committee recommends an appropriation of $7,200,000 for the salaries and expenses of the Office of Revenue Sharing (ORS) in the Department of the Treasury. The amount recommended is the same as the House allowance and $293,000 below the budget estimate.

ORS was established in 1972 to administer the general revenue sharing program, and also is responsible for the conduct of the antirecession financial assistance program. The Secretary of the Treasury, through ORS, is responsible for the computation and distribution of revenue sharing and antirecession quarterly payments and for the maintenance of adequate controls to insure the integrity of the two programs. Also the Office is mandated to supply adequate information, data, and technical assistance to all recipients to assure compliance with the enabling legislation governing general revenue sharing and antirecession revenue sharing; improve the quality of State and local audits to eliminate noncompliance with audit requirements; insure compliance with the nondiscrimination and public participation provisions of the programs; and report to Congress, recipient governments, and the general public at regular intervals.

In approving the 185 permanent positions requested by the Office, the Committee concurs with the House view that a reduction of $293,000 below the budget request can be justified on the basis of a more realistic estimate of personnel compensation costs.

NEW YORK CITY SEASONAL FINANCING FUND, ADMINISTRATIVE EXPENSES

1978 appropriation	$1,150,000
1979 budget estimate	1,150,000
House allowance	1,050,000
Committee recommendation	1,050,000

The Committee concurs with the House in recommending $1,050,000 for the administrative expenses connected with managing the New York City Loan Guarantee Act of 1978, which provides for a program of long-term loan guarantees for New York City. This amount is $100,000 less than the budget request.

In 1975, the New York City Seasonal Financing Act (P.L. 94–143) was passed to provide short-term loans to New York City so that essential City government services could be financed and maintained.

The Act also authorized the appropriation of administrative resources for the management of the loan program, which expired on June 30, 1978.

However the new program of loan guarantees recently approved by the Congress authorizes and requires the continuation of the Office of New York Finance within the Treasury Department. Consequently the Committee has provided all but $100,000 of the amount requested with the expectation that these funds will be used to carefully monitor and administer the new loan guarantee program so as to adequately protect the contingent liability of the Federal Government.

The Committee notes that funds previously appropriated for administrative expenses have been used to pay personnel that have spent little or no time on the New York City loan program. Furthermore the Treasury Department has entered into sole source procurements involving legal services with complete disregard for Federal procurement policy. The Committee understands and expects that these two abuses will stop and that appropriated funds will be spent in accordance with applicable laws and regulations.

Veterans Administration

COMPENSATION AND PENSIONS

1978 appropriation	$9,116,800,000
1979 budget estimate	9,577,300,000
House allowance	9,577,300,000
Committee recommendation	9,577,300,000

The Committee recommends an appropriation of $9,577,300,000 for the payment of compensation, pensions, and related benefits to veterans and their dependents. This amount is the same as the budget estimate and the level of funding recommended by the House.

Compensation is payable to living veterans or the survivors of veterans who have suffered impairment of earning power from service-connected disabilities, while pensions are an income security benefit payable to needy wartime veterans who are precluded from gainful employment due to non-service-connected disabilities which render them permanently and totally disabled. Other related benefits paid under this account include special benefits to certain emergency officers of World War I; burial benefits; invalid lifts and other devices; a veterans' clothing allowance; and veterans' group life insurance.

The amount recommended by the Committee, will permit the VA to provide compensation payments to 2,250,005 veterans and 363,515 survivors, and pension payments to 1,015,265 veterans and 1,293,735 survivors.

READJUSTMENT BENEFITS

1978 appropriation	$2,665,225,000
1979 budget estimate	2,193,300,000
House allowance	2,193,300,000
Committee recommendation	2,144,000,000

The Committee recommends the appropriation of $2,144,000,000 for the payment of education, training and rehabilitation benefits to veterans and eligible dependents. This amount is $49,300,000 below the budget estimate and the amount provided in the House passed bill.

Readjustment benefits are available to (1) service-disabled veterans; (2) dependents and survivors of veterans whose deaths or permanent total disabilities were service connected; and (3) veterans whose careers were interrupted by reason of military service, or servicemen who entered the service after December 31, 1976.

The VA's budget request and the appropriation recommended by the Committee for veterans education and training are predicated on an expected decrease in the total number of trainees, including dependents and vocational rehabilitation trainees, from 1,595,300 in fiscal 1978 to 1,382,000 next year. This decline of 213,300 beneficiaries is primarily due to the expiration of legislation making veterans who were discharged from service 10 years ago eligible for benefits under this program plus the fact that many veterans have either used their full educational entitlement or completed their educational objective. Proposed legislation to terminate flight and correspondence programs after fiscal year 1978 has also contributed to the estimated drop in trainees.

The Committee's recommended reduction of $49,300,000 in the budget request results from a decision to place a limitation in the bill barring the use of appropriated dollars to make education loans to individuals attending schools where the combined tuition and fees for the academic year are $700 or less.

Although this program was created by the Congress to provide an additional source of financial aid to students attending "high tuition" institutions, a recent General Accounting Office report indicated that 72 percent of the loans made from the inception of the program through the end of calendar 1977 went to veterans attending schools charging low or no tuition. These students can be adequately provided for through the traditional VA educational benefit programs. Furthermore the GAO found that the VA has no assurance that the loans are based on demonstrated financial need. Loans were approved to cover such expenses as installment payments on appliances, home improvements, entertainment and holiday gifts. The Committee has also learned that as of January 31 of this year, 46 percent of all matured loans were in default.

The recommended limitation should insure that those who really need education loans to pay for the costs of pursuing their education are aided. At the same time it may well moderate an alarming default rate. Finally, it should save the taxpayer a substantial amount of money.

Although the Veterans Administration's latest quarterly report on educational benefits overpayments reflects some progress over previous quarters in reducing the number of overpayments, the Committee continues to be concerned that the dollar amount of overpayments remains unacceptably high. The Committee recognizes that the agency has taken a number of steps in its effort to bring this situation under control. The VA has increased the number of compliance surveys, increased the use of teletype stop payment transactions, and manually matched and offset overpayments against benefits paid under other VA programs. However, as of March 31, 1978, the balance of overpayments remained at about $396,000,000 with newly established overpayments up 15.3 percent over the amounts uncovered in the

previous quarter. Add to this the fact that collections and offsets have dropped by 13.4 percent since the end of calendar 1977 and it is clear that the VA has yet to turn the corner on this serious problem.

The Committee looks for significant improvements in reducing the actual balance of overpayments and accelerated efforts to collect outstanding balances in fiscal year 1979. The Committee also expects the agency to continue to report quarterly on its progress in reducing educational benefits overpayments.

The Committee notes that on December 8, 1977, the GAO issued a letter report indicating that $9,900,000 in overpayments were in the hands of nine schools and two consultants who had been paid under the predischarge education program (PREP)—a program designed to provide active duty military personnel with courses leading to a high school diploma and with the prerequisites for a postsecondary education. Although PREP operations have apparently ceased and will not resume until July of 1979, the GAO indicated that the schools in question received substantially more than the cost of providing the courses. At the same time, it was determined that the surpluses occurred because VA did not have sufficient financial controls to assure that such payments approximated reasonable costs and that these overpayments should have been recovered. Although the VA has indicated that its Office of Inspector General started to audit the nine schools in question in May of this year, the Committee wishes to reemphasize its concern in this regard and directs the VA to take whatever action is necessary to recover any and all overpayments from the nine schools under review, other schools that may have been overpaid and any consultants who have been hired to assist in the implementation of the PREP program. The Committee expects a full report from the VA on its PREP auditing activities by no later than December 30, 1978.

VETERANS INSURANCE AND INDEMNITIES

1978 appropriation	$2,465,000
1979 budget estimate	5,750,000
House allowance	5,750,000
Committee recommendation	5,750,000

The Committee recommends $5,750,000 for veterans insurance and indemnities. This amount is identical to both the budget request and the level of funding recommended by the House.

Life insurance protection for the Nation's servicepersons, veterans, and their beneficiaries is provided under seven separate programs—six of which are administered directly by the Veterans Administration, with one administered under contract with the private sector through a primary commercial carrier (Servicemen's Group Life Insurance). These insurance programs are financed through this appropriation, which supports the extra hazard costs of insuring disabled veterans, plus three revolving funds—Service-disabled Veterans Insurance, Veterans Reopened Insurance and Servicemen's Group Life Insurance—and three trust funds—National Service Life Insurance, United States Government Life Insurance and Veterans Special Life Insurance.

The appropriation recommended by the Committee represents a $3,285,000 increase over the current estimate for fiscal year 1978,

primarily due to an increase in payments to the service-disabled veterans insurance fund—an insurance fund which provides life insurance to qualifying service disabled veterans who were separated from the service on or after April 25, 1951.

The VA estimates that 7,900,000 policies worth $96,900,000,000 will be in force in fiscal year 1979.

MEDICAL CARE

1978 appropriation	$4, 721, 686, 000
1979 budget estimate	5, 279, 699, 000
House allowance	5, 362, 618, 000
Committee recommendation	5, 299, 699, 000

The Committee recommends an appropriation of $5,299,699,000 for veterans medical care. This amount is $20,000,000 above the budget estimate and $62, 919, 000 below the level of funding recommended by the House.

The medical care program provides for the care and treatment of eligible beneficiaries in VA hospitals, nursing homes, domiciliary and outpatient clinic facilities, contract hospitals, state home facilities, contract community nursing homes, and through a hometown outpatient program on a fee basis. In addition the VA provides hospital and outpatient care for certain dependents and survivors of veterans under the civilian health and medical program of the Veterans Administration (CHAMPVA). Training of medical residents and other personnel in health science fields is also provided by the VA to support the agency's medical manpower needs.

Although the VA has proposed the elimination of certain staff positions as well as the elimination of some underutilized hospital beds, the medical care appropriation recommended by the Committee will provide a net average employment increase of 2,262 over fiscal year 1978, and allow the VA to treat 9,133 more inpatient beneficiaries. Medical outpatient visits will increase by 165,000 in fiscal year 1979 to a total of 17,910,000 visits. Fifteen new substance abuse treatment and rehabilitation units will be activated bringing the total to 93 nation-wide.

The Committee recommends the deletion of all House additions to the budget estimate for this account with the exception of $20,000,000, which is to be used to restore certain of the staffing cuts associated with the VA's decision to reduce operating beds. Although the Committee does not object to the elimination of underutilized beds from the medical care system, it has received no evidence to indicate that this should automatically produce staff savings. To the extent that bed cuts result from shorter patient stays, the number of patients treated may actually be greater due to faster turnover. Consequently the Committee believes that the administration has cut too deep in its efforts to reduce staff as a result of bed reductions and directs the VA to use the $20,000,000 added by the Committee in hospitals with the severest staffing problems.

The Committee urges the Veterans Administration, from within available resources, to lease appropriate facility space for an outpatient clinic in northwest Florida. The Committee understands there exists a pressing and real need for this clinic for the veterans living

in the Florida panhandle. At the present time there are no VA medical facilities in this extensive region of Florida. Northwest Florida is primarily a rural area with only a few large population centers. Distances are great and transportation resources are limited. Florida veterans are having to journey to Mississippi and Alabama to receive medical services. A demographic study has been done on the northwest Florida area, and the study did demonstrate a need for an additional outpatient facility, preferably in the Pensacola area.

The Committee has received indications that staffing decreases related to proposed reductions in selected hospital operating beds have been developed on a formula basis, rather than based on the specific operations of the particular hospital. The Committee directs that any staffing adjustments relative to bed reductions be based on an evaluation of each individual hospital's operating requirements, not on the application of a fixed formula.

The Committee has been and will continue to be strongly supportive of the VA's efforts to provide the highest quality medical care to veterans. At the same time, the Committee encourages VA to improve the management of its medical programs through minimizing duplication of medical services, facilities, and equipment, and sharing such resources with other Federal entities when such economies will not adversely affect the quality of care to veterans. With the cost of medical care skyrocketing both within the VA and in the private sector, the Committee believes that the time has come for the Veterans Administration to take the lead in implementing an aggressive, cost-effective effort to share its medical resources with the Department of Defense, the Public Health Service, and other Federal agencies.

The Committee is particularly encouraged that in February of 1978 the VA, DOD and HEW agreed to form a Federal Health Resources Sharing Committee to work out problems of mutual interest, and to explore ways to make better use of Federal medical resources through sharing. The primary purpose of this interagency panel is to:

> Identify and promote opportunities for joint planning and use of health care resources in the Federal Government and to provide a forum for representatives from Federal agencies to interact in the cooperative exploration of joint planning and sharing opportunities in the delivery of medical services and the use of medical resources.

This is a necessary first step. However, as the General Accounting Office has pointed out in a June 14, 1978 report on interagency sharing (HRD 78–54) many obstacles—both administrative and legislative—remain in the way of an efficient Federal sharing effort. The GAO has made several recommendations to the Congress and the involved agencies which would, if implemented, appear to assist VA and other agencies to continue providing high quality health care, permit local Federal hospital directors to make more effective use of health resources, and take advantage of opportunities to save money and control costs. Although the Committee feels that the GAO's legislative recommendations can best be addressed by the legislative committees of the Congress, it is clear that within existing "sharing" statutes, the VA can and should remove at least some of the administrative obstacles

to interagency sharing. Apparently, the VA has concurred with the GAO in that it feels that administrative remedies would be more appropriate in many instances than legislative remedies to overcome the obstacles to sharing.

The Committee has learned that the time taken by VA Central Office to review interagency sharing proposals from the local hospital level is excessive and inhibits interagency sharing. Also, the failure of the VA and other Federal medical care agencies to arrive at a coordinated, standardized reimbursement mechanism among agencies has perpetuated the disincentive to share services and equipment. Therefore, the Committee directs the VA, both in its individual health care capacity and as a member of the Federal Health Resources Sharing Committee, to re-examine and revise, if necessary, its regulations, policies, and procedures to enhance rather than impede the opportunity for interagency sharing and remove unnecessary restrictions to implementing an aggressive, efficient sharing effort.

In past years the Committee has expressed its concern about the proliferation and underutilization of specialized medical facilities and equipment such as renal transplant units, cardiac catheterization capabilities, and electron microscopy.

The VA has taken significant measures to curb its propensity to procure unnecessary, expensive specialized medical equipment and has gone so far as to close underutilized specialized medical facilities throughout the VA system.

However, a January 30, 1978 General Accounting Office report highlights the need for the VA and other Federal agencies to develop a coordinated approach to planning and using computed tomography scanning equipment or CT scanners. These X-ray units cost from $300,000 to $700,000 with operation and maintenance costs estimated at several hundred thousand dollars a year, not including construction costs.

According to GAO, the agency intends to acquire 13 CT scanners in addition to the 11 already in place in VA facilities. GAO claims that only limited criteria and information was available to justify the need for or location of these 11 VA scanners, that no coordination took place between VA and DOD in planning for these units and that VA did not make sure that adequate staff would be available to operate the scanners planned.

Although the VA has told the Committee it is evaluating and coordinating its CT scanner program in-house, the Committee believes that the VA must play an aggressive role in coordinating CT scanner usage with other agencies and the private sector. Therefore, although the Committee does not intend to place a limit on VA's purchase of CT scanners while a coordinated Federal approach is being developed, it directs the VA to accelerate its efforts to develop such an approach with the Departments of Health, Education and Welfare and Defense through the Federal Health Sharing Resources Committee, and report to the Committee on the progress made as well as the VA's long range CT scanner procurement plans by January 1, 1979.

The Committee shares the House's concern regarding the sharp increase in the procurement cost of drugs and medicine at the VA—an increase of approximately 40 percent over a two year period. It is recognized that the VA has been using a generic prescription policy

for years and is examining the opportunity of utilizing a computer analysis of prescription profiles on individual patients to cut costs and reduce the likelihood of abuse. However, the Committee believes that increased attention should be given to filling prescriptions in-house at a cost estimated to be less than half of that attributed to fee-basis prescriptions. Although some progress has been made in this regard over the past few years, the VA is encouraged to utilize the "in-house" option as fully as possible, as one method of reducing drug costs without a diminution of service and care to veterans.

At the same time it has been suggested to the Committee that the filling of prescriptions for such over-the-counter drugs as aspirin may add unnecessarily to the VA's drug costs. The Committee directs the VA to explore the extent to which savings could be realized by authorizing the reimbursement of veterans for the cost of purchasing readily available over-the-counter drugs prescribed by a physician as an alternative to filling prescriptions for such drugs at a VA facility.

The Committee believes that the agency should give increased attention to its personal care residence program as one alternative to institutionalization. This so-called foster home program was initiated by the VA in 1951 to provide continuity of care for patients who could live in the community, but who had no homes of their own to which they could return after hospitalization The VA administers the program but the veterans must pay for their own living arrangements.

In June of 1976, VA hospital reports indicated that approximately 5,000 patients currently in VA hospitals would be able to participate in the foster home program if they had the income to pay for the monthly costs of foster home placement. The VA subsequently indicated that a maximum of 4,164 patients could participate in the program if they had the wherewithal to do so, although this figure is very suspect and a GAO report on the subject stated that the earlier estimate of 5,000 patients appeared conservative. In any event, the savings to the taxpayer from such a program could be substantial. The cost of keeping 4,164 patients in VA hospitals for a year would be approximately $124,920,000 while placing those same patients in foster homes would cost the government a mere $14,790,528. The Committee therefore directs the VA to explore the feasibility of authorizing the Federal payment of foster home costs as an alternative to keeping patients in VA hospitals and expects a report on this approach, setting forth total costs and anticipated benefits, in conjunction with the Administration's fiscal year 1980 budget request.

MEDICAL AND PROSTHETIC RESEARCH

1978 appropriation	$107,000,000
1979 budget estimate	112,667,000
House allowance	127,607,000
Committee recommendation	120,212,000

The Committee recommends an appropriation of $120,212,000 for medical and prosthetic research. This amount is $7,545,000 more than the budget request and $7,395,000 less than the amount provided by the House.

The Veterans Administration conducts an active medical research program which is directed to the solution of problems related to the medical and dental problems of veterans, and a rehabilitative research

program focusing on rehabilitative engineering problems in the fields of prosthetics, orthotics, adaptive equipment for vehicles, sensory aids and related areas. The medical and prosthetic research account also provides support for health services research projects at VA hospitals and clinics for improving the effectiveness and economy of delivery of health services and improving the accessibility of services to veterans.

The Committee directs the VA to continue to fund the cooperative research program at the fiscal year 1978 level. The resulting savings of $2,575,000 when combined with the $7,545,000 budget add-on provided by the Committee should be sufficient to continue funding scientifically sound research programs at hospitals which would otherwise be without funds and to fund outstanding research programs that might otherwise be restricted. The funding provided should also allow the career development program to be maintained at last year's level of activity with a small dollar increase to offset inflation.

The Committee is concerned with the need to increase research designed to discover a cure for chronic paralysis, which affects 20,000 veterans as well as over 200,000 other Americans. The VA should consider placing special emphasis on research in central nervous system regeneration as an area of great possibility in curing paralysis.

The Committee concurs with the House in recommending that medical and prosthetic research funds be available for two years in accordance with the limitation placed on research funds provided other agencies by this legislation. In previous years, no limitation was placed on the use of funds provided under this program.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

1978 appropriation	$42,000,000
1979 budget estimate	47,855,000
House allowance	47,058,000
Committee recommendation	47,058,000

The Committee recommends an appropriation of $47,058,000 for medical administration and miscellaneous operating expenses. This amount is $797,000 below the budget estimate and identical to the figure recommended by the House.

The medical administration and miscellaneous operating expenses account provides support for (1) central office executive direction, administration and supervision of all Veterans Administration medical programs—including development and implementation of policies, plans and program objectives, and followup action to insure accomplishment of goals; (2) postgraduate and inservice training activities in support of continuing education for employees of various medical programs—including costs of tuition, travel, lecturer's fees, and training materials and equipment; and (3) exchange of medical information between the VA and other elements of the nation's medical-scientific community.

The amount recommended by the Committee will provide for an average employment increase of 56 and will permit the development, implementation and evaluation of a system of multilevel care and other alternative methods of care. The Committee understands that a number of vacancies currently exist within Office of the Chief Medical Director pending the selection of a replacement for the present Medical Director. Consequently, the recommended reduction of 28 positions

in the budget request should not have a substantial effect on staffing levels.

GENERAL OPERATING EXPENSES

1978 appropriation	$550,000,000
1979 budget estimate	622,074,000
House allowance	616,258,000
Committee recommendation	615,670,000

The Committee recommends $615,670,000 for General Operating Expenses in fiscal year 1979. This figure is $6,404,000 below the budget estimate and $588,000 below the amount provided by the House.

The appropriation for general operating expenses covers the Agency's nonmedical administrative support costs for the following activities:

General Administration.—This activity includes the executive direction of the agency and several top level supporting offices, such as the Office of General Counsel, Inspector General, and the Office of Human Goals. Also, it supports the Board of Veterans Appeals which handles all cases of appeals to the Administrator on claims involving benefits under veterans legislation.

Data Management.—The mission of the Department of Data Management provides a complete range of automatic data processing and telecommunications services to all VA departments and staff offices.

Veterans Benefits.—This department determines eligibility and adjudicates all claims for compensation, pensions, educational assistance, housing loan assistance, and insurance awards. The VA operates 59 field offices through which all nonmedical veterans benefits are processed.

National Cemetery System.—The mission of the VA cemetery system is to provide, upon request, for the interment in any national cemetery with available grave space the remains of eligible deceased servicemen and discharged veterans and to permanently maintain these graves; and to mark graves of eligible personnel in national and private cemeteries upon proper application. The VA operates and will maintain 108 national cemeteries and 33 other miscellaneous sites in fiscal year 1979.

Although the funding provided will allow for the further development of the TARGET computer system as well as an average increase of 132 work years in general administration, including additional staff for the Office of Human Goals, the Inspector General and General Counsel's Office, the Committee concurs in a House cutback of $5,488,000 and 300 staff years in the Department of Veterans Benefits.

The Committee also agrees with the House that an additional reduction of $328,000 should be applied to travel, space rental and training costs.

Finally, the Committee recommends the deletion of 70 additional work years and $588,000 requested for the National Cemetery System. The Committee notes that over the past two years productivity within the System has fallen by 8.5 percent. A more efficient use of the 1,250 personnel currently authorized for the System should make it unnecessary to increase staffing for the third consecutive year.

The Committee has recommended an agency representation allowance of $2,500, the amount requested in the administration's budget and provided in past years, rather than the $3,500 approved by the House.

The Committee is pleased that the agency has established an Office of Human Goals which will serve as the VA's principal civil rights and equal employment opportunity office. The Administrator of Veterans Affairs is to be commended for giving this important activity at the agency new visibility and priority. However, the Committee recognizes that the appropriation recommended for this office represents an 82-percent increase over the amount allocated for these activities last year and therefore expects substantial improvement in the VA's equal employment opportunity performance in fiscal year 1979, especially in the agency's efforts to promote minorities and women into upper grade positions and to close the salary gap between white employees and minorities.

CONSTRUCTION, MAJOR PROJECTS

1978 appropriation	$393,689,000
1979 budget estimate	295,855,000
House allowance	348,890,000
Committee recommendation	330,701,000

The Committee recommends an appropriation of $330,701,000 to finance the VA's major construction program in fiscal year 1979. This amount is $34,846,000 above the budget estimate and $18,189,000 below the figure approved by the House.

It should be noted at the outset that the VA has recommended, and the House has approved, a change in the dollar limit for major construction, from $1,000,000 in previous years to $2,000,000 in fiscal year 1979, primarily to offset the effects of inflation over the past several years. However the Committee has recommended the retention of the current $1,000,000 cut-off for major construction in the belief that this will facilitate congressional review of VA reprogramings. This recommendation results in a shift of $33,896,000 from the minor construction budget approved by the House to the major construction budget.

The Committee is hopeful that an improvement in the VA's management of the major and minor construction programs will result in a reduction in cost over-runs, fewer reprogramings and, as a consequence, a diminished need for congressional oversight.

The appropriation for construction, major projects provides for constructing, altering, extending and improving any VA facility, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $1,000,000 or more, or where funds for a project were made available in a previous major project appropriation.

Included in the amount recommended by the Committee is $81,000,000 to construct a replacement hospital in Seattle, Wash.; $18,744,000 to construct a 120 bed nursing home in Washington, D.C.; and $19,979,000 to build an ambulatory care and laboratory addition in Salt Lake City, Utah.

The Committee has recommended the appropriation of $9,809,000 not included in the budget request for a clinical support building at Mountain Home, Tenn.

The Committee has denied the request to reprogram funds that have already been appropriated for a new Veterans Administration hospital in Camden, N.J. The Veterans Administration is directed to proceed with the planning and design of a new hospital at Camden, as proposed in the fiscal year 1977 budget request.

In this regard, the Committee strongly urges the VA to pursue all reasonable sharing arrangements with both neighboring community hospitals and hospitals for the use of specialized services and equipment. The Committee directs the VA to report back to the Committee within six months of the date of this report on the progress it is making in developing sharing arrangements at Camden. Further, the Committee would welcome evidence of cooperative efforts between the VA and the New Jersey Health Services Agency on this matter.

The Committee has provided funding for the construction of replacement facilities for the existing hospitals in Portland, Oreg. and Vancouver, Wash., but not in accordance with the current proposal of the VA.

The VA has proposed construction of a single replacement facility of 858 beds, including 210 beds for psychiatric and nursing home care, to be located in Portland.

The Committee believes that the health care needs of all the eligible veterans of that area and the best interests of their families and friends, as well as the general public, will be better served if smaller and more specialized replacement facilities are constructed in Portland and Vancouver.

A report by the Comptroller General dated May 17, 1978, "Inappropriate Number of Acute Care Beds Planned by VA for New Hospitals," raises significant questions about the distribution of acute and nonacute care beds for the replacement hospital in Portland and at other locations in the country. Although the Committee does not intend to specify the exact distribution of beds among the various categories of care, it believes that significant savings could be realized by placing greater emphasis on nonacute care beds than the VA has proposed.

Therefore, in providing these funds, the Committee recognizes the need for some flexibility in the exact allocation of beds among functions and facilities. But it is directed that the high technology services be located in Portland and that the hospital in Vancouver continue to provide general medical services. In any event, no fewer than 600 beds will be located in Portland and no fewer than 250 beds in Vancouver.

A complete breakdown of projects to be funded under the construction, major projects account in fiscal year 1979 follows:

CONSTRUCTION—MAJOR PROJECTS, FISCAL YEAR 1979

Item and location	Appropriation		
	Available through 1978	Recommended for 1979	Future requirement
Replacement and modernization:			
Portland, Oreg., replacement hospital	$11,030,000	$130,241,000	----------
Seattle, Wash., replacement hospital	9,000,000	81,000,000	----------
Total, replacement and modernization	20,030,000	211,241,000	----------
Nursing home care facilities:			
Atlanta, Ga., 120 beds	520,000	6,624,000	----------
Perry Point, Md., 80 beds	290,000	2,675,000	----------
Washington, D.C., 120 beds, clinical facilities, and parking garage	963,000	18,744,000	----------
Total, nursing home care facilities	1,773,000	28,043,000	----------
Outpatient improvements:			
Jackson, Miss., update regional office for OPC	570,000	4,793,000	----------
San Juan, P.R., update regional office for OPC	845,000	5,987,000	----------
Total, outpatient improvements	1,415,000	10,780,000	----------

CONSTRUCTION—MAJOR PROJECTS, FISCAL YEAR 1979—Continued

Item and location	Appropriation		
	Available through 1978	Recommended for 1979	Future requirement
Other general projects:			
Canandaigua, N.Y., renovate patient buildings	300,000	3,416,000	
Livermore, Calif., remodel 5th floor wards, building 62		1,761,000	
Perry Point, Md., new clinical administration building		1,636,000	
Fayetteville, Ark., renovate building 4		1,606,000	
Brentwood, Calif., remodel building 209		2,614,000	
American Lake, Wash., renovate wards, building 7		2,031,000	
Total, other general projects	300,000	13,064,000	
Medical facility improvements:			
Mountain Home, Tenn., clinical support building	460,000	9,809,000	
Salt Lake City, Utah, ambulatory care addition, laboratory addition, research	1,494,000	19,979,000	
Total, medical facilities improvements	1,954,000	29,788,000	
Clinical improvements:			
Birmingham, Ala., blind rehabilitation center	500,000	4,214,000	
Louisville, Ky., renovate operating rooms		1,693,000	
Allen Park, Mich., expand and renovate laboratory		1,416,000	
Total, clinical improvements	500,000	7,323,000	
Elimination of safety hazards:			
Murfreesboro, Tenn., additional exits	240,000	2,928,000	
St. Louis (J.B.), Mo., safety and fire deficiencies		1,447,000	
Togus, Maine, safety and fire deficiencies		1,907,000	
Augusta, Ga., safety and fire deficiencies		1,309,000	
Dallas, Tex., safety and fire deficiencies		1,186,000	
Shreveport, La., safety and fire deficiencies		1,158,000	
White City, Oreg., replace/upgrade fire alarm system		1,010,000	
Total, elimination of safety hazards	240,000	10,945,000	
Boiler plants:			
Minneapolis, Minnesota boilers		5,307,000	
Sioux Falls, S. Dak., boilers		2,902,000	
Total, boiler plants		8,209,000	
Energy conservation:			
Add-on for 1979 major projects		1,731,000	
Hines, Ill., new control incinerator		1,300,000	
Total, energy conservation		3,031,000	
Correction of seismic deficiencies:			
Charleston, S.C.		963,000	10,461,000
Popular Bluff, Mo.		190,000	2,067,000
Fresno, Calif.		1,803,000	
Total, correction of seismic deficiencies		2,956,000	12,528,000
Correction of electrical deficiencies:			
Brooklyn (St. Albans), N.Y., primary distribution and 2d generator		1,962,000	
Madison, Wisc., secondary and emergency distribution system and generator		1,785,000	
Walla Walla, Wash., primary distribution and secondary generation system		1,140,000	
Buffalo, N.Y., secondary distribution and emergency generator systems		1,380,000	
Castle Point, N.Y., upgrade primary distribution system		1,260,000	
Total, correction of electrical deficiencies		7,527,000	
Elevators: Wilkes-Barre, Pa., 3 additional elevators		1,356,000	
Patient support: Brooklyn, N.Y., medical gas system—20 wards		1,136,000	
National Cemetery Program:			
Calverton, N.Y., develop 49 acres		2,576,000	
Indiantown Gap, Pa., develop 100 acres	574,000	5,021,000	
Quantico, Va., develop 75 acres	488,000	4,400,000	
Region IV, master plans, phase I development	300,000	353,000	3,385,000
Region V, master plans, phase I development	300,000	350,000	3,350,000
Total, National Cemetery program	1,662,000	12,700,000	6,735,000
Total, construction, major	27,874,000	348,099,000	19,263,000
Less savings $17,398,000 from prior year appropriated funds		−17,398,000	
Net appropriation recommended		330,701,000	

The Committee is pleased that the design contract for the Baltimore Veterans Administration Hospital has now been awarded and that design is underway. The Committee understands that the transfer of the site from the State of Maryland to the VA will be consumated by the fall of this year, and that the VA anticipates that the first phase of construction will begin in February 1980 and the final phase of construction will be completed by March 1983.

The Committee is concerned over an apparent lack of coordination in the VA's construction program among the Office of the Controller, the Office of Construction, and the Department of Medicine and Surgery. Although the Administrator for Veterans Affairs has taken a first step in alleviating this breakdown by directing his Assistant Deputy Administrator for Financial Management and Construction to work on the problems of coordination between the Office of the Controller and the Office of Construction, much remains to be done in this regard. One of the most serious symptoms of the lack of a cohesive construction program at the VA is the continued proliferation of program and design change orders, inaccurate estimates, and other management inefficiencies such as outdated blueprints, which often result in substantial cost overruns. Both of the large hospital construction projects recommended for funding in fiscal year 1979 have suffered considerable cost escalation and are illustrative of the poor performance of the agency in estimating and controlling the costs of major construction projects.

For example, the VA budget request includes $139,100,000 for construction of a replacement hospital in Portland, Oreg. According to VA's own figures the estimate for this hospital has gone from a fiscal 1973 baseline estimate of $40,600,000 to the current price tag of $150,130,000—a jump of $109,530,000 or 270 percent. Square footage requirements increased by 426,659 square feet or 66 percent over this same period. The agency has attributed $34,916,000 of the increase to cost escalation, but over $74,600,000 of the increase was due to program and design changes. Another $2,100,000 was attributed to bad estimates. A January 20, 1978 GAO Report (PSAD 78–60) listed five other replacement hospitals which have incurred cost escalations in excess of 100 percent.

The Committee is hopeful that the Administrator's efforts to improve coordination among those involved in construction decisions, as well as the wise use of an advanced planning fund, will help to bring the problem of cost escalation in construction projects under control. At the same time the Committee finds the VA's track record in this area unacceptable and directs the Administrator to take whatever further steps may be necessary to correct the situation.

The Committee continues to be disappointed that the VA and the GAO still have not been able to reach a final agreement on the implementation of the GAO model for sizing new and replacement hospitals. Last year, the Committee directed the agency to implement the GAO's computer-based model for arriving at estimates of acute care bed need in determining the size and bed mix of future major hospital construction projects. The VA's Chief Medical Director told

the Committee earlier this year that the major remaining obstacle blocking VA's adoption of the GAO model involved the question of whether VA utilization data should be adjusted to take into account prevailing standards in the civilian community regarding patient lengths of stay rather than Federal hospital standards.

In any event, the Committee believes that the Veterans Administration has had ample opportunity to reach a resolution of its disagreements with the GAO in this regard and expects the agency to develop a final model, in cooperation with the GAO, by the beginning of the next fiscal year. The model should then be used by the VA in developing its budget estimates for all future major hospital construction projects, including any projects currently being considered for funding in fiscal year 1980.

CONSTRUCTION, MINOR PROJECTS

1978 appropriation	$94, 106, 000
1979 budget estimate	121, 147, 000
House allowance	119, 297, 000
Committee recommendation	85, 401, 000

The Committee recommends $85,401,000 for the construction of minor projects in fiscal year 1979. This amount is $35,746,000 less than the budget request and $33,896,000 below the level of funding recommended by the House. The administration has proposed that the limitation for construction, minor projects, be increased from $1,000,000 to $2,000,000 to compensate for inflation. The Committee has rejected this proposal. As a result $33,896,000 worth of construction projects has been shifted from this account to the major projects construction account.

The appropriation for minor construction supports projects costing less than $1,000,000 for the construction of new facilities, the modernization of existing facilities, the alteration and improvement of facilities under the jurisdiction of the VA and the costs of running the Office of Construction. Under this account, funds are also provided for architectural and engineering services as well as site acquisition in addition to construction. The budget includes $4,000,000 for an advanced planning fund supporting preliminary planning work on major construction projects.

The Committee agrees with the House decision to delete the $1,000,000 requested for a proposed discretionary fund. The Committee also concurs in a House-approved cut of $850,000 in the request for the Office of Construction in recognition of the fact that funds were transferred to staff that office above the congressionally approved level in the current fiscal year. The support recommended will permit an increase in total average employment by the Office of Construction of 37 positions above the originally estimated 1978 level, including 10 purchase and hire positions.

The Committee understands that a portion of the $4,000,000 approved for advanced planning will be used to produce a master plan for the modification or replacement of the VA hospital in Minneapolis, Minn., and directs the VA to move forward with the preliminary planning effort in the coming fiscal year.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

1978 appropriation	$15,000,000
1979 budget estimate	5,000,000
House allowance	15,000,000
Committee recommendation	5,000,000

The Committee recommends an appropriation of $5,000,000 for grants for construction of State extended care facilities. This level of funding is the same as the budget request and $10,000,000 less than the amount recommended by the House.

This program, as amended by Public Law 95–62, approved on July 5, 1977, provides grants to assist the States to construct State home facilities for furnishing domiciliary or nursing home care to veterans, and to expand, remodel or alter existing buildings for furnishing domiciliary, nursing home, or hospital care to veterans in State homes. Grants for State nursing facilities may not exceed 65 percent of the total cost of the project and may not provide for more than 2½ beds per 1,000 veteran population in any State. Grants to any one State may not exceed one-third of the amount appropriated in any fiscal year. As of September 30, 1977, Federal funds in excess of $64,000,000 have been obligated to help finance 125 projects in 27 States.

ASSISTANCE FOR HEALTH MANPOWER TRAINING INSTITUTIONS

1978 appropriation	$49,458,000
1979 budget estimate	75,000,000
House allowance	47,437,000
Committee recommendation	47,437,000

The Committee recommends $47,437,000 for grants to eligible applicants for the purpose of health manpower education and training expansion. This amount is $27,563,000 less than the budget request and identical to the House-approved figure.

These funds may be used to assist in the establishment of up to eight new State medical schools to be located in proximity to and operated in conjunction with Veterans Administration hospitals; to assist existing medical schools which are affiliated with the VA to expand and improve their training capacities; and to help other health manpower institutions affiliated with the VA in the coordination, improvement and expansion of the training of professional, technical allied health and paramedical personnel. In addition, funds may be provided to expand and make necessary improvements to VA hospitals so that they will be suitable for use in health manpower education and training in cooperation with affiliated medical schools and other institutions.

To date, five new State medical schools.—Wright State University in Ohio, the University of South Carolina, Texas A. & M. University, Marshall University in West Virginia and East Tennessee State University—have been approved and grant funds made available. Grant awards have also been made to 18 established medical schools and 135 other health manpower institutions.

As indicated by the House, the budget estimate for fiscal year 1979 is predicated on the assumption that the authority to appro-

priate funds for the health manpower training program will terminate in the next fiscal year. The Committee agrees with the House that this assumption is unrealistic and therefore concurs with the level of funding approved by the House, which will fulfill all of the agency's fiscal year 1979 commitments under this program.

The amount provided, together with a carry-forward of $14,145,000 from fiscal year 1978, will allow the VA to obligate up to $61,582,000 in fiscal year 1979.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

1978 appropriation	$1,700,000
1979 budget estimate	----------
House allowance	----------
Committee recommendation	----------

The Committee recommends that no funds be provided in fiscal year 1979 for grants-in-aid to the Republic of the Philippines for the medical care and treatment of eligible Philippine Commonwealth veterans and new Philippine Scouts. The administration did not request budget authority for this program and no appropriation was recommended by the House.

Last year the Committee cited a May 20, 1977 General Accounting Office Report which said that treatment for nonservice-connected illnesses represented about 96 percent of the care provided under this grant program. The Committee recommended that a reduction of U.S. support for this program begin, stating that (1) the U.S. position has always been that the Philippine Government would eventually assume full responsibility for the operation and maintenance of the Veterans Memorial Medical Center and (2) that the commitment to pay for medical care for Filipino veterans did not extend to nonservice-connected disabilities. Consequently the Committee concurs with the House and the administration that the current legislation should be allowed to expire and that the Philippine Government should assume the cost of treating Filipino veterans in fiscal year 1979.

LOAN GUARANTY REVOLVING FUND (LIMITATION ON OBLIGATIONS)

1978 limitation	($575,000,000)
1979 budget estimate	----------
House allowance	----------
Committee recommendation	----------

The Committee concurs with the House in recommending that the expenditure limitation imposed annually on the Loan Guaranty Revolving Fund be removed in fiscal year 1979. This recommendation by the Committee conforms with the administration's request that the annual limitation be deleted.

The Veterans Administration guarantees loans made by private lenders to assist eligible veterans in obtaining credit for the purchase or construction of homes. Funding for the payment of claims and property management operations relating to the guaranty of loans made with private capital is provided through the VA's Loan Guaranty Revolving Fund. The program operates by substituting the Federal government's guaranty to lenders against financial loss on loans to veterans for the investment protection afforded under conventional mortgage terms by substantial downpayments and relatively shorter loan terms.

The VA estimates that a total of 372,000 VA guaranteed and insured loans will be made in fiscal year 1979—a decrease of 10,000 below fiscal year 1978 activity. At the same time, obligations for claims paid and real property acquisitions are projected to increase by $33,600,000 as a result of an increase in the average cost of housing and the increased number of loans guaranteed in the past two fiscal years. Also, the agency estimates that loan sales will increase by $39,100,000, while other receipts, principally from property sales, are expected to increase by $16,100,000 in fiscal year 1979.

In recommending deletion of the limitation on loan guarantees, the Committee concurs with the administration's position that administrative control of fund expenditures could be accomplished internally by the VA with the understanding that should future circumstances dictate renewed congressional control over the Loan Guaranty Revolving Fund, the dollar limitation could be reinstated.

The Committee is encouraged with the progress of the VA's mobile home loan program. Although the program had problems in its initial stages, testimony presented in February of this year indicates that despite a substantial increase in the number of mobile home loans guaranteed, the number of claims, or defaults, on mobile home loans in 1977 fell by 30 percent and through the first quarter of fiscal year 1978 there has been an additional 26-percent drop in the number of claims against loans. At the same time, the total cost of mobile home claims in fiscal 1977 dropped by 38 percent from fiscal year 1976 and the dollar value of the average mobile home loan claim declined by almost 12 percent during that period.

TITLE III

CORPORATIONS

Federal Home Loan Bank Board

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES

	Administrative expenses	*Nonadministrative expenses*
1978 appropriation	$16,730,000	$26,230,000
1979 budget estimate	18,258,000	30,290,000
House allowance	17,793,000	30,290,000
Committee recommendation	17,793,000	29,895,000

The Committee recommends a limitation on administrative expenses of $17,793,000 and a limitation on nonadministrative expenses of $29,895,000 for the Federal Home Loan Bank Board. The amount provided for administrative expenses is the same as the House limitation and $465,000 below the budget estimate. The limitation recommended by the Committee for nonadministrative expenses is $395,000 below the budget estimate and the amount provided by the House.

The Board formulates policies for and supervises the operation of the 12 Federal home loan banks, the system of Federal savings and loan associations, and the Federal Savings and Loan Insurance Corporation. It is also responsible for the examination of Federal savings and land associations and for the examination and supervision of State-chartered institutions insured by the Federal Savings and Loan Insurance Corporation.

The administrative expenses of the Federal Home Loan Bank Board, including the home office of the Office of Examinations and Supervision, are paid from assessments against the 12 Federal home loan banks and the Federal Savings and Loan Insurance Corporation, while the nonadministrative expenses are paid from fees collected from savings and loan institutions for examinations and from assessments against the Federal Savings and Loan Insurance Corporation.

The Committee concurs in the House decision to delete $495,000 from the recommended limitation on the Board's administrative expenses. In the course of hearings on the Board's fiscal year 1979 budget request, a great deal of conflicting evidence was presented regarding the degree to which the Board has been charging one-time costs associated with its new building to its operating budget. Although the picture is a confused one, the Committee feels certain that the Board can easily absorb the proposed cut in view of the amount of non-recurring expenses that were associated with the opening of the new building but were nonetheless charged to the Board's administrative budget in the current fiscal year.

The Committee is concerned over the high costs associated with the new Bank Board building. In the course of hearings on this year's

budget request, a considerable amount of testimony was elicited indicating that the Bank Board's management of building costs has been unsatisfactory and its decision to lease space to private firms questionable. The Committee intends to continue its oversight of costs associated with the new building with particular reference to the profits or losses incurred in leasing space to commercial enterprises and operating the new building's ice rink.

The Board has requested 33 new examiner positions under the non-administrative expense account at a cost of $790,000. This is in addition to the 60 examiners which the Board requested and received last year. As of July 1 of this year, only 50 of these 60 new positions had been filled. The Committee is concerned with the increase in the cost of examining staff and the fact that this cost of government regulation finds its way into the cost to the public of home loans.

The Committee wishes the Board to place greater reliance on the reports of state savings and loan examiners as a long term means of controlling the spiraling cost of savings and loan examination. At present, both Board and State employed examiners scrutinize the operations of State licensed, FSLIC insured, savings associations. The Committee believes that the Board should rely on state examiners to complete a greater share of the job of examinations.

Consequently the Committee has denied the $790,000 requested for 33 new Federal examiner positions and directs the Board to use half of the dollars saved—$395,000—for the training of State savings and loan examiners. The Committee expects these State examiners to take up the slack created by the Committee's decision not to approve funding for more Federal examiners.

The training funds provided should be spent on training approved as adequate by the Bank Board and the Institute for Continuing Regulatory Education. Such training is to include a new examiner training school, district training programs, special courses, professional examiner development and electronic data processing training.

Federal Savings and Loan Insurance Corporation

Limitation on Administrative Expenses

1978 appropriation	$870,000
1979 budget estimate	960,000
House allowance	940,000
Committee recommendation	940,000

The Committee concurs with the House in recommending a limitation of $940,000 on the administrative expenses of the Federal Savings and Loan Insurance Corporation. This amount is $20,000 less than the budget estimate.

The Federal Savings and Loan Insurance Corporation insures savings for up to $40,000 for each qualified investor's account in an insured institution. All Federal savings and loan associations, and those State-chartered building and loan, savings and loan, and homestead associations, as well as cooperative banks, which apply and are approved, are insured.

To prevent the default of an insured institution or restore it to normal operation, the Corporation may make loans to, purchase assets of, or make a financial contribution to such an institution. In the event of a default by any insured institution, payment of each insured account is made by the Corporation as soon as possible. Income of the Corporation consists principally of premiums paid by insured institutions and interest earned on investments.

The Committee endorses the House reduction of $20,000 in special studies costs. Despite this cutback the Corporation will be able to spend $130,000 on special studies in fiscal year 1979, the same amount as the Corporation plans to spend on special studies in the current fiscal year.

TITLE IV—GENERAL PROVISIONS

The Committee agrees that the General Provisions approved by the House and applicable to the Department and agencies in fiscal year 1979 as set forth in Title IV should be controlling with the following additions:

(1) Language on cost sharing requirements, a provision which has been included in this bill for many years, was deleted by the House because of information the House Appropriations Committee received that it served as an impediment to valid projects. The Committee has included the language in the bill again with the understanding that proper regulations based on this provision, and proper interpretation of them, should result in no impediment to or discouragement of grantees or contractors conducting research for the Government. The Committee is concerned that Government regulations implementing this provision have gone beyond its requirements as explicitly set forth in report language accompanying the bills initially containing this provision and in the year following, that cost sharing by a grant or contract recipient is required only when it is demonstrable that the recipient will realize a benefit from the research other than the benefit intrinsic in conducting research for the Government. The "mutuality of interest of the grantee or contractor and the Government" phrase can clearly be interpreted to mean that there will be no cost sharing when the recipient will gain no benefit other than conducting the research in question.

A too-strict interpretation of the cost-sharing requirement could work against the best interest of contractors and grantees, the Government, and the country at large. The strength of this country depends in great part on new research and newly conceived ideas that are generated by all the different intellectual disciplines throughout the country. We must be very careful not to, in any way, discourage the origination and development of new scientific research, whatever its source.

(2) The Committee has recommended the inclusion of language stating that funds may not be used to pay the salary of a consultant, either directly or through a grant, in excess of the daily equivalent rate paid to a GS–18 employee.

The Committee has taken note of complaints regarding section 409 of Public Law 95–119. The complaints are to the effect that this type of provision should not put a lid on payments to firms and individuals who have overhead expenses in addition to direct salary costs. The Committee believes these complaints are justified and has amended the language in question to make it clear that it only relates to salary costs.

The Committee wishes to point out that under section 15 of the Act of August 2, 1946, now codified as section 3109 of title 5, the amount

which a Government agency may directly compensate an expert or consultant is limited to the per diem equivalent of the highest rate payable under section 5332 of title 5 unless a higher rate is specifically authorized by the appropriation or other statute authorizing the procurement of the services.

It is for this reason that the Committee has recommended language which which would restrict the payment of the salary of an expert or consultant, either directly or through a grant, to the daily equivalent of the maximum rate pay for grade GS–18 under the General Schedule, section 5332 of title 5 unless otherwise specifically authorized by law. This restriction is consistent with section 3535(e) of title 42 which provides that the Secretary of the Department of Housing and Urban Development may obtain services as authorized by section 15 of the Act of August 2, 1946, at rates for individuals not to exceed the per diem equivalent to the highest rate for grade GS–18.

The Comptroller General has decided in 26 Comp. Gen. 188 (1946) that the limitation on the compensation of experts or consultants in section 15 of the Act of August 2, 1946, is not for application when the service contracted for is of a nonpersonal nature and the individuals are not subject to the supervision or control of the Government to such an extent as usually prevails in the case of employer-employee relationships. Rather this restriction is for application to individual services of a purely personal nature which creates an employer-employee relationship. The Committee's recommended language is intended to apply only to the procurement of such services as would fall under the compensation restriction in section 15 of the Act of August 2, 1946 as interpreted by 26 Comp. Gen. 188 and does not cover eligible and allowable overhead costs associated with the provision of such services.

Compliance With Rule XVI, Paragraph 8

The following amendments recommended by the Committee not made to carry out the provisions of existing law are brought to the attention of the Senate in accordance with Rule XVI, Paragraph 8:

On page 2, line 20:

except that unutilized balances of set-asides contained in previous appropriations acts to assist in financing the development or acquisition of low-income housing projects to be owned by public housing agencies other than under section 8 of the above Act shall remain in effect during fiscal year 1979.

On page 21, line 22:

:Provided further, That none of the funds provided by this Act shall be used to pay an investigator, through a grant, at more than the maximum rate paid for GS–18.

On page 25, line 2:

:Provided, That no part of past or future transfers from this account to the Education Loan Fund shall be used to make education loans to individuals attending a school where the combined tuition and fees for the academic year are $700 or less.

Under the heading "General Provisions":

Sec. 407. None of the funds provided in this act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals for projects not specifically solicited by the Government: Provided, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

Sec. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

BUDGETARY IMPACT OF H.R. 12936[1]

[Dollars in millions]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
I. Comparison of amounts in the bill with the committee allocation to its subcommittees of amounts in the first concurrent resolution for 1979:				
Subcommittee on Housing and Urban Development—Independent Agencies	73,000	68,464	48,800	44,777
II. Summary of functional category of 1979 budget amounts recommended in the bill:				
050—National Defense		7		[2]7
150—International Affairs				
250—General Science, Space, and Technology		4,774		[2]4,619
270—Energy		115		[2]119
300—Natural Resources and Environment		5,609		[2]4,315
350—Agriculture				
370—Commerce and Housing Credit		1,665		[2]889
400—Transportation		511		[2]444
450—Community and Regional Development		5,009		[2]4,170
500—Education, Training, Employment, and Social Services		10		[2]9
550—Health		40		[2]39
600—Income Security		25,548		[2]4,402
700—Veterans Benefits and Services		18,290		[2]18,874
750—Administration of Justice		18		[2]18
800—General Government		6		[2]6
850—General Purpose Fiscal Assistance		6,863		[2]6,865
900—Interest				
III. Financial assistance to State and local governments for 1979 in the bill		25,765		865
IV. Projections of outlays associated with budget authority recommended in the bill:				
1979				[2]29,132
1980				8,276
1981				3,961
1982				1,771
1983				1,730
Future year				23,595

[1] Prepared by the Congressional Budget Office pursuant to section 308a, Public Law 93-344.
[2] Includes outlays from prior year budget authority.
[3] Excludes outlays from prior year budget authority.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1978 AND THE BUDGET ESTIMATES FOR FISCAL YEAR 1979

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are not included in the accompanying bill.]

Agency and item	New budget (obligational) authority, 1978	Budget estimates of new (obligational) authority, 1979	Increase or decrease
(1)	(2)	(3)	(4)
PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY			
FEDERAL FUNDS			
Department of Housing and Urban Development:			
Annual contributions for assisted housing (contract authority)	$38,672,000	$39,700,000	$+1,028,000
Homeownership and rental housing assistance	486,000	---	-486,000
Federal Housing Administration fund (authority to borrow, indefinite)	540,200,000	98,877,000	-441,323,000
College Housing - loans and other expenses	286,000	---	-286,000
Revolving fund (liquidating programs, indefinite)	689,000	1,164,000	+475,000
Government National Mortgage Association: Special assistance functions fund:			
Permanent appropriation (indefinite)	3,260,000	3,100,000	-160,000
New communities fund (authority to borrow)	135,148,000	48,157,000	-86,991,000
Interstate land sales (indefinite, special)	365,000	365,000	---
Total, Federal Funds	719,106,000	191,363,000	-527,743,000

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY			
TRUST FUNDS			
American Battle Monuments Commission:			
Contributions (indefinite)	$25,000	$28,000	$+3,000
National Aeronautics and Space Administration:			
Miscellaneous trust funds	15,000	---	-15,000
National Science Foundation: Donations (indefinite)	5,000,000	5,300,000	+300,000
Veterans Administration:			
Post-Vietnam era veterans education account (indefinite)	30,792,000	55,189,000	+24,397,000
General post fund, national homes (indefinite)	6,100,000	6,400,000	+300,000
National service life insurance fund (indefinite)	971,900,000	963,800,000	-8,100,000
U.S. Government life insurance fund (indefinite)	37,983,000	36,165,000	-1,818,000
Total, Trust Funds	1,051,815,000	1,066,882,000	+15,067,000
Total Permanent Funds	1,770,921,000	1,258,245,000	-512,676,000

Note: Some items are indefinite in amount, and thus are subject to later reestimation.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN

[Amounts

Item	1978 Appropriation	Budget estimate
TITLE I		
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
HOUSING PROGRAMS		
Annual contributions for assisted housing (contract authority)	$11,483,563,000	$14,650,950,000
(Increased limitation for annual contract authority)	(1,150,995,000)	(1,334,050,000)
Housing payments (appropriation to liquidate contract authority)	(4,382,000,000)	(4,503,000,000)
Housing for the elderly or handicapped (authority to borrow)	750,000,000	800,000,000
Congregate Services Program	---	---
Payments for operation of low-income housing projects	695,000,000	729,000,000
Troubled projects operating subsidy	---	74,000,000
Federal Housing Administration Fund	15,000,000	357,200,000
Government National Mortgage Association		
Emergency Mortgage Purchase Assistance (Recapture of repayments)	---	---
Special assistance functions:		
(Authority to borrow)	---	1,500,000,000
(Recapture of repayments)	(2,000,000,000)	(500,000,000)
Payment of participation sales insufficiencies	16,587,000	20,477,000
Total, Housing Programs	12,950,150,000	28,126,717,000
COMMUNITY PLANNING AND DEVELOPMENT		
Community development grants	3,600,000,000	3,750,000,000
Urban development action grants	400,000,000	400,000,000
Comprehensive planning grants	57,000,000	57,000,000
Rehabilitation loan fund	---	245,000,000
Urban homesteading	---	20,000,000
Total, Community Planning and Development	4,057,000,000	4,472,000,000
FEDERAL INSURANCE ADMINISTRATION		
Flood insurance	91,000,000	114,000,000
NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION		
Housing counseling assistance	5,000,000	8,000,000
POLICY DEVELOPMENT AND RESEARCH		
Research and technology	52,000,000	62,000,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES THE BILL FOR FISCAL YEAR 1979

in dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
$24,650,950,000	$24,650,950,000	+$6,837,613,000	---	---
(1,334,950,000)	(1,334,950,000)	(+174,955,000)	---	---
(4,460,000,000)	(4,460,000,000)	(+78,000,000)	$(−43,000,000)	$(−3,000,000)
800,000,000	800,000,000	+50,000,000	---	---
---	20,000,000	+20,000,000	+20,000,000	+20,000,000
729,000,000	729,000,000	+44,000,000	---	+44,000,000
74,000,000	74,000,000	+74,000,000	---	---
352,390,000	352,390,000	+337,290,000	---	---
---	(4,000,000,000)	(+4,000,000,000)	(+4,000,000,000)	(+4,000,000,000)
500,000,000	500,000,000	+500,000,000	−1,000,000,000	---
(1,500,000,000)	(1,500,000,000)	(−500,000,000)	(−1,000,000,000)	---
20,477,000	20,477,000	+3,890,000	---	---
27,120,717,000	27,146,717,000	−5,803,433,000	−980,000,000	+26,000,000
3,750,000,000	3,750,000,000	+150,000,000	---	---
400,000,000	400,000,000	---	---	---
50,000,000	57,000,000	---	---	+7,000,000
245,000,000	245,000,000	+245,000,000	---	---
20,000,000	20,000,000	+20,000,000	---	---
4,465,000,000	4,472,000,000	+415,000,000	---	+7,000,000
90,000,000	85,000,000	−6,000,000	−20,000,000	−5,000,000
10,000,000	8,000,000	+3,000,000	---	−2,000,000
56,000,000	59,000,000	+7,000,000	−3,000,000	+3,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

[Amounts

Item	1978 Appropriation	Budget estimate
MANAGEMENT AND ADMINISTRATION		
Salaries and expenses, Department of Housing and Urban Development	$233,496,000	$279,570,000
(By transfer, FHA funds)	(229,000,000)	(250,255,000)
Total, Department of Housing and Urban Development	37,398,644,000	33,062,287,000
FUNDS APPROPRIATED TO THE PRESIDENT		
FEDERAL DISASTER ASSISTANCE ADMINISTRATION		
Disaster relief	450,000,000	200,000,000
Total, title I, Department of Housing and Urban Development:		
New budget (obligational) authority	37,838,644,000	33,262,287,000
Appropriations	5,605,081,000	6,311,337,000
Contract authority	31,483,563,000	26,650,950,000
Authority to borrow	750,000,000	2,300,000,000
(Appropriation to liquidate contract authority)	(4,387,000,000)	(4,503,630,000)
(Increased limitation for annual contract authority)	(1,150,995,000)	(1,334,950,000)
(Limitation on corporate funds to be expended)	(229,000,000)	(250,255,000)
TITLE II		
INDEPENDENT AGENCIES		
AMERICAN BATTLE MONUMENTS COMMISSION		
Salaries and expenses	6,463,000	6,240,000
CONSUMER PRODUCT SAFETY COMMISSION		
Salaries and expenses	39,144,000	41,463,000
DEPARTMENT OF DEFENSE - CIVIL		
CEMETERIAL EXPENSES, ARMY		
Salaries and expenses	5,000,000	5,200,000
ENVIRONMENTAL PROTECTION AGENCY		
Agency and regional management	72,866,000	84,185,000
Research and development	316,747,000	324,128,000
Abatement and control	513,573,000	564,929,000
Enforcement	70,837,000	95,555,000
Buildings and facilities	---	2,563,000
Construction grants:		
Appropriation	4,500,000,000	4,500,000,000
(Appropriation to liquidate contract authority)	(5,000,000,000)	(1,400,000,000)

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

[In dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
$271,553,000	$275,851,000	$+42,357,000	$-3,719,000	$+4,298,000
(250,255,000)	(250,255,000)	(+21,255,000)	---	---
32,013,270,000	32,046,568,000	-5,342,076,000	-1,015,719,000	+33,298,000
200,000,000	200,000,000	-250,000,000	---	---
32,213,270,000	32,246,568,000	-5,592,076,000	-1,015,719,000	+33,298,000
6,262,320,000	6,295,618,000	+690,537,000	-15,719,000	+33,298,000
24,650,950,000	24,650,950,000	-6,832,613,000	---	---
1,300,000,000	1,300,000,000	+550,000,000	-1,000,000,000	---
(4,463,000,000)	(4,460,000,000)	(+78,000,000)	(-43,000,000)	(-3,000,000)
(1,334,950,000)	(1,334,950,000)	(+176,955,000)	---	---
(250,255,000)	(250,255,000)	(+21,255,000)	---	---
6,240,000	6,240,000	-223,000	---	---
40,000,000	40,000,000	+856,000	-1,463,000	---
5,100,000	5,100,000	+100,000	-100,000	---
84,185,000	84,185,000	+11,339,000	---	---
328,028,000	328,528,000	+11,781,000	+4,400,000	+500,000
664,115,000	710,940,000	+197,367,000	+46,011,000	+46,825,000
94,555,000	94,755,000	+23,818,000	-800,000	+200,000
1,063,000	1,063,000	+1,063,000	-1,500,000	---
4,200,000,000	4,500,000,000	---	---	+300,000,000
(1,400,000,000)	(1,400,000,000)	(-3,600,000,000)	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

[Amounts

Item	1978 Appropriation	Budget estimate
Scientific activities overseas (special foreign currency program)	$4,000,000	$4,000,000
Total, Environmental Protection Agency	5,478,003,000	5,675,360,000
EXECUTIVE OFFICE OF THE PRESIDENT		
Council on Environmental Quality and Office of Environmental Quality	2,854,000	3,126,000
Office of Science and Technology Policy	2,800,000	2,621,000
Total, Executive Office of the President	5,654,000	5,747,000
GENERAL SERVICES ADMINISTRATION		
Consumer Information Center	4,700,000	1,186,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE		
Office of Consumer Affairs	1,750,000	1,737,000
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION		
Research and development	3,013,000,000	3,305,100,000
Construction of facilities	160,940,000	152,500,000
Research and program management	844,000,000	914,000,000
Total, National Aeronautics and Space Administration	4,017,940,000	4,371,600,000
NATIONAL COMMISSION ON AIR QUALITY		
National Commission on Air Quality	---	4,000,000
NATIONAL INSTITUTE OF BUILDING SCIENCES		
Salaries and expenses	1,000,000	---
NATIONAL SCIENCE FOUNDATION		
Research and related activities	783,200,000	850,400,000
Science education activities	73,200,000	77,600,000
Scientific activities overseas (special foreign currency program)	4,900,000	6,000,000
Total, National Science Foundation	861,300,000	934,000,000
SELECTIVE SERVICE SYSTEM		
Salaries and expenses	6,300,000	9,500,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

in dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
2,500,000	2,500,000	+1,500,000	+1,500,000	---
5,374,446,000	5,721,971,000	+243,968,000	+46,611,000	+347,525,000
2,926,000	3,026,000	+172,000	-100,000	+100,000
2,476,000	2,476,000	-324,000	-145,000	---
5,402,000	5,502,000	-152,000	-245,000	+100,000
1,166,000	1,146,000	-3,554,000	-40,000	-20,000
1,700,000	1,700,000	-50,000	-37,000	---
3,292,200,000	3,295,700,000	+282,700,000	-9,400,000	+3,500,000
136,690,000	148,500,000	-12,440,000	-4,000,000	+13,810,000
907,000,000	914,000,000	+70,000,000	---	+7,000,000
4,333,890,000	4,358,200,000	+340,260,000	-13,400,000	+24,310,000
2,000,000	2,000,000	+2,000,000	-2,000,000	---
1,000,000	500,000	-500,000	+500,000	-500,000
806,400,000	846,400,000	+63,200,000	-4,000,000	+40,000,000
82,600,000	77,600,000	+4,400,000	---	-5,000,000
4,900,000	3,000,000	-1,900,000	-3,000,000	-1,900,000
893,900,000	927,000,000	+65,700,000	-7,000,000	+33,100,000
7,045,000	7,045,000	+745,000	-2,455,000	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

[Amounts

Item	1978 Appropriation	Budget estimate
DEPARTMENT OF THE TREASURY		
Payments to State and local government fiscal assistance trust fund	$6,854,924,000	$6,854,924,000
Antirecession financial assistance fund	1,400,000,000	---
Office of Revenue Sharing, salaries and expenses	7,500,000	7,493,000
New York City seasonal financing fund, administrative expenses	1,150,000	1,150,000
Total, Department of the Treasury	8,263,574,000	6,863,567,000
VETERANS ADMINISTRATION		
Compensation and pensions	9,116,800,000	9,577,300,000
Readjustment benefits	2,665,225,000	2,193,300,000
Veterans insurance and indemnities	2,465,000	5,750,000
Medical care	4,721,686,000	5,279,699,000
Medical and prosthetic research	107,000,000	112,667,000
Medical administration and miscellaneous operating expenses	42,000,000	47,855,000
General operating expenses	550,000,000	622,074,000
Construction, major projects	393,689,000	295,855,000
Construction, minor projects	94,106,000	121,147,000
Grants for construction of State extended care facilities	15,000,000	5,000,000
Assistance for health manpower training institutions	49,458,000	75,000,000
Grants to the Republic of the Philippines	1,700,000	---
Loan guaranty revolving fund (limitation on obligations)	(575,000,000)	---
Supply fund	20,000,000	---
Total, Veterans Administration	17,779,129,000	18,335,647,000
Total, title II, Independent Agencies: New budget (obligational) authority	36,469,957,000	36,255,247,000
(Appropriation to liquidate contract authority)	(5,000,000,000)	(1,400,000,000)

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

[In dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
16,854,924,000	16,854,924,000	---	---	---
---	---	+1,400,000,000	---	---
7,200,000	7,200,000	−300,000	+293,000	---
1,050,000	1,050,000	−100,000	−100,000	---
6,863,174,000	6,863,174,000	−1,400,400,000	−393,000	---
9,577,300,000	9,577,300,000	+460,500,000	---	---
2,193,300,000	2,144,000,000	−521,225,000	−49,300,000	−49,300,000
5,750,000	5,750,000	+3,285,000	---	---
5,362,618,000	5,299,699,000	+578,013,000	+20,000,000	−62,919,000
127,607,000	120,212,000	+13,212,000	+7,545,000	−7,395,000
47,058,000	47,058,000	+5,058,000	−797,000	---
616,258,000	615,670,000	+65,670,000	−6,404,000	−588,000
348,890,000	330,701,000	−62,988,000	+34,846,000	−18,189,000
119,297,000	85,401,000	−8,705,000	−35,766,000	−33,896,000
15,000,000	5,000,000	−10,000,000	---	−10,000,000
47,437,000	47,437,000	−2,021,000	−27,563,000	---
---	---	−1,700,000	---	---
---	---	(−575,000,000)	---	---
---	---	−20,000,000	---	---
18,460,515,000	18,278,228,000	+499,099,000	−57,419,000	−182,287,000
35,995,578,000	36,217,806,000	−252,151,000	−37,441,000	+222,228,000
(1,400,000,000)	(1,400,000,000)	(−3,600,000,000)	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

[Amounts

Item	1978 Appropriation	Budget estimate
TITLE III		
CORPORATIONS		
Federal Home Loan Bank Board:		
(Limitation on administrative expenses)	$(16,730,000)	$(18,258,000)
(Limitation on nonadministrative expenses)	(26,230,000)	(30,290,000)
Federal Savings and Loan Insurance Corporation, (limitation on administrative expenses)	(870,000)	(960,000)
Total, title III, Corporations	(43,830,000)	(49,508,000)
Grand total, titles I, II, and III:		
New budget (obligational) authority	74,308,601,000	69,517,534,000
Appropriations	42,075,038,000	42,566,584,000
Contract authority	31,483,563,000	24,650,950,000
Authority to borrow	750,000,000	2,300,000,000
(Appropriations to liquidate contract authority)	(9,382,000,000)	(5,903,000,000)
(Increased limitation for annual contract authority)	(1,159,995,000)	(1,334,950,000)
(Limitation on corporate funds to be expended)	(272,830,000)	(299,763,000)
(Limitation on obligations)	(575,000,000)	---

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

[In dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
$(17,793,000)	$(17,793,000)	$(+1,063,000)	$(−465,000)	---
(30,290,000)	(29,895,000)	(+3,665,000)	(−395,000)	$(−395,000)
(940,000)	(940,000)	(+70,000)	(−20,000)	---
(49,023,000)	(48,628,000)	(+4,798,000)	(−880,000)	(−395,000)
68,208,848,000	68,464,374,000	−5,844,227,000	−1,053,160,000	+255,526,000
42,257,898,000	42,513,424,000	+438,386,000	−53,160,000	+255,526,000
24,650,950,000	24,650,950,000	−6,832,613,000	---	---
1,300,000,000	1,300,000,000	+550,000,000	−1,000,000,000	---
(5,863,000,000)	(5,860,000,000)	(−3,522,000,000)	(−43,000,000)	(−3,000,000)
(1,334,950,000)	(1,334,950,000)	(+174,955,000)	---	---
(299,278,000)	(298,883,000)	(+26,053,000)	(−880,000)	(−395,000)
---	---	(−575,000,000)	---	---

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Note.—In lieu of a star print, errata are printed to indicate corrections to the original report.

Calendar No. 985

95TH CONGRESS, 2d Session } SENATE { REPORT No. 95-1061

SECOND SUPPLEMENTAL APPROPRIATIONS BILL, 1978

AUGUST 1 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 13467]

The Committee on Appropriations, to which was referred the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended.

ERRATA

Page 2, line 14, strike out [$6,637,650,686] and insert: $6,636,510,686

Page 2, line 15, strike out [$530,796,300] and insert: $531,936,300

Page 2, line 16, strike out [$304,261,500] and insert: $303,121,500

Page 2, line 24, strike out [6,774,798,986] and insert: 7,168,446,986

Page 2, line 25, strike out [6,637,650,686] and insert: 6,636,510,686

Page 2, line 26, strike out [+304,261,500] and insert: +303,121,500

Page 2, line 27, strike out [−530,796,300] and insert: −531,936,300

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Page 3, line 3, strike out [$3,218,507,136] and insert: $3,218,867,136

Page 4, column 5, under "Senate committee recommendations", alining with "Labor and Health, Education, and Welfare: New budget (obligational) authority", strike out [282,725,000] and insert: 281,225,000

Page 4, column 6, under "Budget estimates", alining with Labor and Health, Education, and Welfare: New budget (obligational) authority", strike out [−205,027,000] and insert: −206,527,000

Page 4, column 7, under "House bill", alining with Labor and Health, Education, and Welfare: New budget (obligational) authority", strike out [−96,949,000] and insert −98,449,000

Page 5, column 5, under "Senate committee recommendations", alining with "Total, title I—General Supplementals: New budget (obligational) authority", strike out [3,419,143,550] and insert: 3,417,643,550

Page 5, column 6, under "Budget estimates", alining with "Total, title I—General Supplementals: New budget (obligational) authority", strike out [−459, 623,000] and insert: −461,123,000

Page 5, column 7, under "House bill", alining with "Total, title I—General Supplementals: New budget (obligational) authority", strike out [+247,780,500] and insert: +246,280,500

Page 6, column 5, under "Senate committee recommendations", alining with "Total, title II—Increased Pay Costs: New budget (obligational) authority", strike out [$3,218,507,136] and insert: $3,218,867,136

Page 6, column 6, under "Budget estimates", alining with "Total, title II—Increased Pay Costs: New budget (obligational) authority", strike out [−$71,173,300] and insert: −$70,813,300

Page 6, column 7, under "House bill", alining with "Total, title II—Increased Pay Costs: New budget (obligational) authority", strike out [+$21,283,000] and insert: +$21,643,000

Page 6, column 5, under "Senate committee recommendations", alining with "grand total—titles I, II, and III: New budget (obligational) authority", strike out [6,637,650,686] and insert: 6,636,510,686

Page 6, column 6, under "Budget estimates", alining with "grand total—titles I, II, and III: New budget (obligational) authority", strike out [—530,796,300] and insert: —531,936,300

Page 6, column 7, under "House bill" alining with "grand total—titles I, II and III: New budget (obligational) authority", strike out [+304,261,500] and insert: +303,121,500

Page 7, strike out lines 23 to 27, inclusive and insert:

ECONOMIC RESEARCH SERVICE

1978 appropriations to date	$29,864,000
1978 supplemental estimate	950,000
House allowance	950,000
Committee recommendation	950,000

Page 44, line 34, strike out [neecssary] and insert necessary

Page 45, line 14, strike out [resources,] and insert: Resources

Page 46, line 16 from the bottom, strike out [medic are] and insert: medicare

Page 54, column 1, under "Department or activity", line 2 from the bottom, strike out [Alergy] and insert: Allergy

Page 54, column 5, under "Senate committee recommendation", alining with "Preventive health services", strike out [------] and insert: 1,500,000

Page 54, column 6 under "Budget estimate", alining with "Preventive health services", strike out [−15,000,000] and insert: −13,000,000

Page 54, column 7 under "House bill", alining with "Preventive health services", strike out [----------] and insert: +1,500,000

Page 54, column 5, under "Senate committee recommendation", alining with "National Institute of Allergy and Infection", strike out [3,000,000] and insert: 0

Page 54, column 6 under "Budget estimate", alining with "National Institute of Allergy and Infection", strike out [+3,000,000] and insert: ----------

Page 54, column 7 under "House bill" alining with "National Institute of Allergy and Infection", strike out [----------] and insert: −3,000,000

Page 55, column 1, line 9 from the bottom, strike out [otal] and insert: Total

Page 55, column 5, under "Senate committee recommendation", alining with "Total, chapter V: New budget (obligational) authority", strike out [282,725,000] and insert: 281,225,000

Page 55, column 6, under "Budget estimate", alining with "Total, chapter V: New budget (obligational) authority", strike out [−205,027,000] and insert: −206,527,000

Page 55, column 7, under "House bill", alining with "Total, chapter V: New budget (obligational) authority", strike out [−96,949,000] and insert: −98,449,000

Page 96, after line 18 insert:

FEDERAL HIGHWAY ADMINISTRATION

DARIEN GAP HIGHWAY

1978 appropriation to date	----------
1978 supplemental request	$20,000,000
House allowance	----------
Committee recommendation	----------

The Committee has not allowed the budget request of $20,000,000 to pave that portion of the Darien Gap Highway as far south as the Rio Conglon River in Panama.

The Committee action is consistent with the denial of a similar budget request by the conference committee on the fiscal 1979 appropriation bill for the Department of Transportation and the belief that this project should be deferred.

Page 118, in the table column 3, under "Recommended in the bill", alining with "New budget (obligational) authority", strike out [3,218,507,136] and insert: 3,218,867,136

Page 118, in the table column 4, under "Differences", alining with "New budget (obligational) authority", strike out [−71,173,300] and insert: −70,813,300

Page 118, line 24 from the bottom, strike out [$3,218,507,136] and insert: $3,218,867,136

Page 118, line 21 from the bottom, strike out [$71,173,300] and insert $70,813,000

Page 129, column 4 under "Senate committee recommendation" alining with "Reserve personnel, Navy", strike out [10,265,000] and insert: 10,625,000

Page 129, column 5 under "Budget estimate", alining with "Reserve personnel, Navy", strike out [−360,000] and insert ----------

Page 129, column 6 under "House bill", alining with "Reserve personnel, Navy", strike out [−9,060,000] and insert: −8,700,000

Page 130, column 4, line 3, alining with "Total, Military personnel" strike out [1,170,027,000] and insert: 1,170,387,000

Page 130, column 5, line 3, alining with "Total, Military personnel" strike out [−46,535,000] and insert: −46,175,000

Page 130, column 6, line 3, alining with "total, military personnel" strike out [+26,640,000] and insert: +27,000,000

Page 130, column 4, in the last line alining with "total, Department of Defense—Military", strike out [2,053,167,000] and insert: 2,053,527,000

Page 130, column 5, in the last line alining with "Total, Department of Defense—Military", strike out [−98,895,000] and insert: −98,535,000

Page 130, column 6, in the last line alining with "Total, Department of Defense—Military", strike out [+26,640,000] and insert: +27,000,000

Page 151, strike out column 4 under "Senate committee recommendation" and insert:

—

3,218,867,136
(4,951,331)
(118,501,000)

(1,036,000)
(16,929,000)

—

Page 151, strike out column 5 under "Budget estimates" and insert:

−106,000

−70,813,300
(−44,354,346)
(−7,029,000)
(−45,000)

(+6,000,000)

—

Page 151, strike out column 6 under "House bill" and insert:

—

+21,643,000

—

—

—

—

(+6,000,000)

+35,198,000

Page 153, strike out lines 13 to 15, inclusive, and insert:

Section 304 will amend the Supplemental Treasury and Post Office Departments Appropriation Act, 1949 (62 Stat. 561).

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95TH CONGRESS
2d Session

SENATE

Calendar No. 985

REPORT
No. 95-1061

SECOND SUPPLEMENTAL APPROPRIATIONS BILL, 1978

AUGUST 1 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 13467]

The Committee on Appropriations, to which was referred the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended.

INDEX TO BILL AND REPORT

	Page number	
	Bill	*Report*
Narrative summary of bill		2
Tabular summary of bill		3
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Chapter I—Agriculture, Rural Development and Related Agencies	2	7
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Title II—Increased pay costs	46	118
Title III—General provisions	74	152

Summary of the Bill

The budget estimates on which the bill is based are contained in H. Doc. 95–281 (January 23, 1978), H. Doc. 95–311 (April 3, 1978), H. Doc. 95–331 (May 2, 1978), H. Doc. 95–335 (May 12, 1978), S. Doc. 95–106 (June 5, 1978), S. Doc. 95–110 (June 15, 1978), S. Doc. 95–113 (July 11, 1978), S. Doc. 95–117 (July 24, 1978), and S. Doc. 95—— (August 1, 1978).

The Second Supplemental Appropriations Bill for fiscal year 1978 provides authority and funds in Title I for general program supplemental appropriations. Title II provides for increased pay costs for fiscal year 1978. Title III contains recommended general provisions.

GRAND TOTAL OF THE BILL

The grand total of new budget (obligational) authority recommended in the bill is $6,637,650,686. The Committee has recommended reductions of $530,796,300 from the budget estimates, and an increase of $304,261,500 from the House allowance.

The Committee also recommends transfers of $131,916,331 between various accounts. In some cases, in lieu of providing additional new budget authority, the Committee has recommended transfers from accounts which have unexpended balances determined to be in excess of needs.

Amount of estimates considered by House	$6, 675, 886, 486
Amount of bill passed by House	6, 333, 389, 186
Amount of estimates considered by Senate Committee	6, 774, 798, 986
Amount of bill as reported by Senate Committee	6, 637, 650, 686
Amount of increase recommended by Senate Committee (compared to House)	+304, 261, 500
Amount of decrease recommended by Senate Committee (compared to estimates)	−530, 796, 300

BILL HIGHLIGHTS

Major items in the bill include the following:

Increased pay costs for military and civilian personnel	$3, 218, 507, 136
Veterans Administration: Compensation and pensions	489, 600, 000
Land and water conservation fund	205, 000, 000
Fire suppression costs	256, 750, 000
Student loan insurance fund	180, 000, 000
Economic development assistance program	117, 000, 000
Postal Service	91, 748, 000
Civil Service retirement and disability fund	428, 758, 000
Operation and maintenance	237, 930, 000
Retired pay, Defense	169, 600, 000
Watershed and flood operations (emergency damage repair)	80, 000, 000
Small Business Administration	378, 000, 000

Proliferation of Appropriations

The Committee notes with concern the increasing number of supplementals in recent years and suggests to the Office of Management and Budget that several changes take place during fiscal year 1979 if the original intent of the urgent and regular supplemental is to be maintained. The Committee feels that the use of supplemental funding should only occur under circumstances which are beyond the control of the initial planning stages. To achieve this goal, the Committee would suggest that the administration and Office of Management and Budget assume a more active role in program planning and a more restrictive role in supplemental spending.

Tabular Summary

Details with respect to each of the recommended items can be found in the request documents and in the narrative included in each chapter, and in the tabulations at the conclusion of each chapter of this report. A summary tabulation follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Chapter No.	Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendations compared with (+ or −): Budget estimates	Senate committee recommendations compared with (+ or −): House bill
	TITLE I—GENERAL SUPPLEMENTALS					
I	Agriculture:					
	New budget (obligational) authority	$6,126,000	$187,706,000	$151,226,000	+$145,000,000	−$36,480,000
II	Foreign Operations:					
	New budget (obligational) authority	32,394,000	21,250,000	22,040,000	−10,354,000	+790,000
III	Housing and Urban Development—Independent agencies:					
	New budget (obligational) authority	560,777,000	538,553,000	539,553,000	−21,224,000	+1,000,000
	Appropriations	536,477,000	514,253,000	515,253,000	−21,224,000	+1,000,000
	Contract authority	24,300,000	24,300,000	24,300,000		
	(Increase in limitations)	(250,000)			(−250,000)	
	(Increased limitation for annual contract authority)	(24,300,000)	(24,300,000)	(24,300,000)		
IV	Interior and Related Agencies:					
	New budget (obligational) authority	567,547,000	571,235,000	542,161,000	+34,614,000	−29,074,000
	(By transfer)	(6,000,000)			(−6,000,000)	
V	Labor and Health, Education, and Welfare:					
	New budget (obligational) authority	487,752,000	379,675,000	282,725,000	−205,027,000	−96,949,000
	(Increase in limitations)	(36,797,000)	(18,797,000)		(−36,797,000)	(−18,797,000)

VI Legislative Bra[illegible]:					
New budget (obligational) authority	60,027,550	9,063,050	19,207,550	−40,820,000	+10,144,500
Military Construction:					
New budget (obligational) authority	73,540,000			−73,540,000	
VII Public Works:					
New budget (obligational) authority	5,350,000	8,700,000	8,700,000	+3,350,000	
(By transfer)	(3,305,000)			(−3,305,000)	
VIII State, Justice, Commerce and the Judiciary					
New budget (obligational) authority	665,594,000	256,772,000	666,121,000	−9,473,000	+399,349,000
IX Transportation:					
New budget (obligational) authority	93,429,000	40,044,000	131,044,000	+37,615,000	+83,000,000
(By transfer)	(9,000,000)	(9,000,000)	(9,000,000)		
(Appropriations to liquidate contract authority)	(9,940,000)	(9,940,000)	(9,940,000)		
(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(−9,479,000)	
X Treasury, Posta Service & General Government:					
New budget (obligational) authority	632,220,000	549,600,000	551,600,000	−80.[illegible]20,000	+2,000,000
(Increase in limitations)	(1,027,000)	(1,027,000)	(1,027,000)		
XI Defense:					
New budget (obligational) authority	748,000,000	599,766,000	514,766,000	−233,234,000	−85,000,000
(By transfer)			(100,000,000)	(+100,000,000)	(+100,000,000)
Total, title I—General Supplementals:					
New budget (obligational) authority	3,878,766,550	3,171,363,050	3,419,143,550	−459,623,000	+247,780,500
(Appropriation to liquidate contract authority)	(9,940,000)	(9,940,000)	(9,940,000)		
(By transfer)	(18,305,000)	(9,000,000)	(109,000,000)	(+90,695,000)	(+100,000,000)
(Increase in limitations)	(38,074,000)	(19,824,000)	(1,027,000)	(−37,047,000)	(−18,797,000)
(Increased limitation for annual contract authority)	(24,300,000)	(24,300,000)	(24,300,000)		
(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(−9,479,000)	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE I—GENERAL SUPPLEMENTALS—Continued

Chapter No.	Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendations compared with (+ or −): Budget estimates	Senate committee recommendations compared with (+ or −): House bill
	Total, title II—Increased Pay Costs:					
	New budget (obligational) authority	$3,289,680,436	$3,197,224,136	$3,218,507,136	−$71,173,300	+$21,283,000
	(By transfer)	(49,305,677)	(4,951,331)	(4,951,331)	(−44,354,346)	
	(Increase in limitations)	(125,530,000)	(118,501,000)	(118,501,000)	(−7,029,000)	
	(Trust fund transfer)	(45,000)			(−45,000)	
	(Transfer from Commodity Credit Corporation)	(1,036,000)	(1,036,000)	(1,036,000)		
	(By transfer from FHA fund)	(10,929,000)	(10,929,000)	(16,929,000)	(+6,000,000)	(+6,000,000)
	Total, title III—General Provisions		−35,198,000			+35,198,000
	Grand total—titles I, II, and III:					
	New budget (obligational) authority	7,168,446,986	6,333,389,186	6,637,650,686	−530,796,300	+304,261,500
	(Appropriation to liquidate contract authority)	(9,940,000)	(9,940,000)	(9,940,000)		
	(By transfer)	(67,610,677)	(13,951,331)	(113,951,331)	(+46,340,654)	(+100,000,000)
	(Increase in limitation	(163,604,000)	(138,325,000)	(119,528,000)	(−44,076,000)	(−18,797,000)
	(Trust fund transfer)	(45,000)			(−45,000)	
	(Transfer from Commodity Credit Corporation)	(1,036,000)	(1,036,000)	(1,036,000)		
	(By transfer from FHA fund)	(10,929,000)	(10,929,000)	(16,929,000)	(+6,000,000)	(+6,000,000)
	(Increased limitation for annual contract authority)	(24,300,000)	(24,300,000)	(24,300,000)		
	(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(−9,479,000)	

TITLE I

CHAPTER I

DEPARTMENT OF AGRICULTURE

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

1978 appropriations to date	$441, 204, 000
1978 supplemental estimate	1, 255, 000
House allowance	3, 675, 000
Committee recommendation	1, 455, 000

For the Animal and Plant Health Inspection Service, the Committee recommends a supplemental appropriation of $1,455,000. This is $2,220,000 less than the amount included in the House bill, and $200,000 more than the budget estimate.

Included within this appropriation is $1,255,000 requested for inspection and quarantine activities as mandated by the Airport and Airways Development Act Amendments of 1976. In addition, $200,000 is provided for control of the gypsy moth—the maximum amount that can be spent within the remainder of the fiscal year. The House bill included $870,000 for gypsy moth.

The Committee does not concur with increases of $800,000 for pink bollworm, $450,000 for cattle ticks, or $300,000 for contagious equine metritis. In these cases, additional funding is not required or cannot be effectively used during the remainder of this fiscal year.

ECONOMIC RESEARCH SERVICE

1978 appropriations to date	$29, 864, 0
1978 supplemental estimate	950, 0 0
House allowance	950, 0 0
Committee recommendation	950, 00

For the Economic Research Service, the Committee recommends a supplemental appropriation of $950,000, which is the same as the budget estimate and House allowance.

This amount includes funds needed to conduct a study of the feasibility of establishing a system to monitor foreign investment in agricultural, rural and urban real property pursuant to section 4(d) of the International Investment Survey Act of 1976. Funds to be utilized for this survey total $450,000 in this bill, the same as the budget request and the House allowance.

The Farmer-to-Consumer Direct Marketing Act of 1976 directed that the Secretary of Agriculture initiate and coordinate a program designed to facilitate direct marketing from farmers to consumers. One section provides for a continuing survey of existing methods of direct marketing in each state. The funding included in this bill, $500,000, will enable the survey of up to six States, the maximum number now considered feasible.

Federal Crop Insurance Corporation

SUBSCRIPTION TO CAPITAL STOCK

1978 appropriations to date	$30,000,000
1978 supplemental estimate	20,000,000
House allowance	20,000,000
Committee recommendation	20,000,000

The Committee recommends an appropriation of $20,000,000 for subscription to capital stock. This is the same as the supplemental budget request and the amount included in the House bill.

These funds are needed to provide the Corporation with adequate working capital, which, in recent years, has become depleted.

The Committee is concerned over the failure to enact legislation reforming the Federal agricultural disaster and crop insurance program. Such legislation has been pending in Congress for at least 2 years. The Committee urges prompt enactment of such legislation in order to avoid further supplemental appropriations of this nature. These have resulted from lack of an adequate authorization for administrative expenses and a continuous depletion of their capital stock and reserve position.

Farmers Home Administration

RURAL WATER AND WASTE DISPOSAL GRANTS

1978 appropriations to date	$250,000,000
1978 supplemental estimate	----------
House allowance	50,000,000
Committee recommendation	50,000,000

For Rural Water and Waste Disposal Grants, the Committee recommends a supplemental appropriation of $50 million, the same as the amount included in the House bill. No funds were requested for these grants in the budget estimate.

The Farmers Home Administration is authorized to make grants to rural area associations such as nonprofit corporations and municipalities for up to 50 percent of the cost of developing projects for storage, treatment, purification and distribution of domestic water or the collection, treatment, or disposal of wastes.

With this appropriation, the full amount of the current authorization will be funded.

SALARIES AND EXPENSES

1978 appropriations to date	$185,184,000
1978 supplemental estimate	5,260,000
House allowance	5,260,000
Committee recommendation	1,000,000

For Salaries and Expenses of the Farmers Home Administration, the Committee recommends a supplemental appropriation of $1,000,000. This is $4,260,000 less than the budget estimate and House allowance.

The budget request included funds for an additional 250 staff-years to process loan and grant applications. While the Committee recognizes the need for additional personnel for Farmers Home Administration, it is not feasible to utilize the full budget request because of the lateness of this supplemental.

Accordingly, the Committee is providing $1 million to begin staffing increases at the agency, with the understanding that funds for

additional increases in staffing will be appropriated in the regular 1979 appropriations bill.

Soil Conservation Service

CONSERVATION OPERATIONS

1978 appropriations to date	$229,060,000
1978 supplemental estimate	7,700,000
House allowance	7,700,000
Committee recommendation	7,700,000

For Conservation Operations of the Soil Conservation Service, the Committee recommends a supplemental appropriation of $7,700,000, the same as the budget request and the amount included in the House bill.

Of the amount provided in this bill, $2.4 million will be used for staffing, travel, training and development of materials for the rural clean water program authorized by section 35 of the Clean Water Act of 1977. The Committee will consider appropriations for cost-sharing for carrying out the actual program in connection with the 1979 budget.

Included within this appropriation is $5,300,000 for implementing the provisions of Public Law 95–192, the Soil and Water Resource Conservation Act. This Act authorizes and directs the Secretary of Agriculture to carry out a continuing appraisal of soil, water, and related resources of the Nation. The objective is to aid in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use. Supplemental funds are needed to begin implementation of Public Law 95–192, and to meet the reporting deadlines specified in the Act.

WATERSHED AND FLOOD PREVENTION OPERATIONS

1978 appropriations to date	$186,492,000
1978 supplemental estimate	
House allowance	80,000,000
Committee recommendation	80,000,000

For Watershed and Flood Prevention Operations, the Committee recommends a supplemental appropriation of $80,000,000. This is the same as the amount provided in the House bill. No funds were requested in the budget estimate.

These funds are for emergency assistance to repair damage to watersheds as a result of major storms or forest fires which have occurred during late 1977 and early 1978, as provided by Section 216 of the Flood Control Act of 1950.

The latest estimated damages, by State and territory are as follows:

Arizona	$8,000,000
California	51,353,000
Georgia	100,000
Kentucky	293,000
Mississippi	2,900,000
New York	830,000
North Carolina	3,370,000
Oregon	5,206,000
Tennessee	347,000
Puerto Rico	842,000
Washington	5,918,000
Reserve	841,000
Total	80,000,000

Any unused funds shall be available for similar purposes in other States.

Agricultural Stabilization and Conservation Service

AGRICULTURAL CONSERVATION PROGRAM

1978 appropriations to date	$226,600,000
1978 rescission requested	−30,000,000
House allowance	
Committee recommendation	−30,000,000

The Committee recommends the recission of $30,000,000 for the agricultural conservation program, drought and flood conservation program. This is the same as proposed by the President under Public Law 93–344, the Budget Impoundment and Control Act. The House bill does not include this recission.

The Supplemental Appropriations Act, 1978 (Public Law 95–240) contained $36.6 million for drought and flood assistance in the agricultural conservation program. These funds were to be utilized for payments to farmers for two purposes: drought assistance and water conservation practices. Since September 30, 1977, the effects on farmland of the 1977 drought have been mitigated by abundant rainfall in most of the areas that suffered from this drought. Therefore, $30 million of this appropriation are not needed for the purpose for which they were provided. The Committee recommends that these funds be rescinded.

The remaining $6.6 million will be used for payments to farmers for costs of water conserving practices carried out during the period of January 20 through September 30, 1977. This is in accordance with the intent of the Congress that help be given to those farmers who carried out such practices after the January 1977 Presidential disaster declaration, but before the Congress initially made funds available for drought and flood assistance.

There is no programmatic effect of this rescission proposal. Drought conditions do not exist where the funds were anticipated to be needed, and the fiscal year 1978 program authorized by law can be accomplished without these funds.

EMERGENCY CONSERVATION MEASURES

1978 appropriations to date	$10,000,000
1978 supplemental estimate	
House allowance	20,000,000
Committee recommendation	20,000,000

For Emergency Conservation Measures, the Committee recommends a supplemental appropriation of $20,000,000. This is the same as the amount included in the House bill. No funds were requested for this appropriation in the budget estimate.

These funds will be used for sharing the cost of emergency conservation measures to deal with cases of severe damage to farm and rangelands resulting from natural disasters. The criteria under which assistance may be made available are set forth in the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(h)).

Funds are allocated for use only in those counties designated by the Secretary of Agriculture as disaster counties. Assistance is made avail-

able to treat new conservation problems which (1) if not treated will impair or endanger the land, (2) materially affect the productive capacity of the land, (3) represent damage which is unusual in character and, except for wind erosion, is not the type which would recur frequently in the same area, and (4) will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.

The estimated damages, by State, are as follows:

Alabama	$100,000
Arizona	1,500,000
California	5,800,000
Florida	455,000
Iowa	135,500
Kansas	100,000
Kentucky	30,000
Maine	25,000
Minnesota	785,000
Mississippi	200,000
Montana	3,000,000
Nebraska	1,250,000
New Hampshire	9,000
North Dakota	1,500,000
Ohio	15,000
Oregon	200,000
Texas	2,000,000
Wisconsin	1,030,000
Wyoming	1,700,000
Reserve	165,500
Total	20,000,000

RELATED AGENCIES

Commodity Futures Trading Commission

1978 appropriations to date	$13,196,000
1978 supplemental estimate	971,000
House allowance	121,000
Committee recommendation	121,000

For the Commodity Futures Trading Commission, the Committee recommends a supplemental appropriation of $121,000. This is the same as the amount included in the House bill, but $850,000 lower than the budget request.

The Committee recommends that $121,000 be used to begin to increase the staff of the Commission in 1978, although none of these funds are to be used for the commodity options pilot program. The amount included in the bill is the maximum that is estimated can be used based on the expected date of enactment of this bill.

Increased Pay Costs—Title II

The Committee recommends a total appropriation of $98,814,000 for increased pay costs during fiscal year 1978. This amount, which is $2,000,000 less than the supplemental budget request, is included in the total pay costs provided under title II of the bill.

A $2,000,000 reduction has been made in the pay costs of the Food and Drug Administration. Current personnel levels projected for 1978 indicate these funds are not necessary, and the reduction will have no programmatic impact.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

Requested in H. Doc. 95-281 as amended by [1]	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER I					
	DEPARTMENT OF AGRICULTURE					
	AGRICULTURAL PROGRAMS					
	PRODUCTION, PROCESSING AND MARKETING					
	Animal and Plant Health Inspection Service:					
	Disease and Pest Control	$1,255,000	$3,675,000	$1,455,000	+$200,000	−$2,220,000
	Economic Research Service	950,000	950,000	950,000		
	Total, Production, Processing and Marketing	2,205,000	4,625,000	2,405,000	+200,000	−2,220,000
	FARM INCOME STABILIZATION					
	Federal Crop Insurance Corporation:					
	Subscription to Capital Stock	20,000,000	20,000,000	20,000,000		

	RURAL DEVELOPMENT PROGRAMS					
	RURAL DEVELOPMENT ASSISTANCE					
	Rural water and waste disposal grants	----------	50,000,000	50,000,000	+50,000,000	----------
	Farmers Home Administration:					
	Salaries and expenses	5,260,000	5,260,000	1,000,000	−4,260,000	−4,260,000
	Total, Rural development programs	5,260,000	55,260,000	51,000,000	+45,740,000	−4,260,000
	CONSERVATION					
	Soil Conservation Service:					
96-331	Conservation operations	7,700,000	7,700,000	7,700,000	----------	----------
	Watershed and flood prevention operations	----------	80,000,000	80,000,000	+80,000,000	----------
	Agricultural Stabilization and Conservation Service:					
	Agricultural Conservation program	−30,000,000	----------	−30,000,000	----------	−30,000,000
	Emergency conservation measures	----------	20,000,000	20,000,000	+20,000,000	----------
	Total, Conservation	22,300,000	107,700,000	77,700,000	+100,000,000	−30,000,000
	RELATED AGENCIES					
	Commodity Futures Trading Commission	971,000	121,000	121,000	−850,000	----------
	Total, Chapter I: New budget (obligational) authority	6,136,000	187,706,000	151,226,000	+145,090,000	−36,480,000

[1] Documents are H. Doc. unless otherwise noted.

CHAPTER II

FOREIGN ASSISTANCE ACT ACTIVITIES

FUNDS APPROPRIATED TO THE PRESIDENT

ECONOMIC ASSISTANCE

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Fiscal year 1978 appropriations to date	$231,250,000
Supplemental budget request	9,500,000
House allowance	8,500,000
Committee recommendation	9,500,000

The Committee recommends the appropriation of the full amount requested in supplemental funding for International Organizations and Programs. The entirety of the requested $9,500,000 is for an additional contribution for the United Nations Relief and Works Agency for Palestine Refugees (UNRWA). The U.S. voluntary contribution provided for this U.N. agency in the regular fiscal year 1978 Foreign Assistance and Related Programs Appropriations Bill (Public Law 95–148) amounted to $42,500,000.

UNRWA was established in 1950 with the primary mission of providing food, housing, and health care to refugees from Palestine. It has since shifted the majority of its resources to programs of primary, secondary, and vocational education, although it still provides rations, housing, and health care to needy refugees in host Arab countries, Lebanon, and Israel.

UNRWA, as a temporary agency, does not receive support from the regular United Nations budget, with the exception of some support given by other United Nations agencies—for example, World Health Organization—and the payment of international staff costs from the regular U.N. budget. Consequently, it relies upon voluntary contributions to meet its ongoing program costs. From time to time, UNRWA has been buffeted by economic problems which have severely restricted its ability to perform its mission. Most recently, the civil war in Lebanon has compounded UNRWA's projected operating deficit for 1978.

The UNRWA budget for 1978 totals $139.8 million. Pledged and expected funds come to $112.8 million, for a projected deficit of $27 million. Accordingly, if the Congress were to approve the whole of the $9.5 million requested by the administration, a projected deficit of $17.5 million would still remain. U.S. officials and UNRWA's Commissioner-General are hopeful that the Arab countries, through the Organization of Petroleum Exporting Countries (OPEC), will make a substantial contribution to UNRWA in the current year.

This Committee believes that in the volatile context of the Middle East, UNRWA plays a stabilizing role. Its programs are efficient, effective, and nonpolitical. In particular, its operation of schools for

Palestinian youths denies to the radical Palestine liberation organizations the opportunity of running the schools themselves, and using them as centers of indoctrination and training for terrorists. We are aware that the OPEC countries are not doing their part in supporting UNRWA, but we suggest that the prospect of increased radicalization far outweighs the potential impact that the reduction proposed by the House would have on OPEC contributions.

Additionally, it should be recalled that when the House wrote its version of the original fiscal year 1978 Foreign Assistance and Related Programs Appropriation Bill, it provided the full amount—$52 million—requested by the President. This amount was subsequently reduced by the Senate to comply with a Senate amendment reducing the authorization for UNRWA in fiscal year 1978. Following an on-site Senate survey of UNRWA programs, the authorization for UNRWA appropriations has been raised to the level of the original request. This Committee believes that that request should now be met.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

Fiscal year 1978 appropriations to date	$21, 450, 000
Supplemental budget request	2, 770, 000
House allowance	2, 770, 000
Committee recommendation	2, 770, 000

The 1973 amendments to the Foreign Assistance Act of 1961 (Public Law 93–189) authorized the participation of certain employees of the Agency for International Development in the Foreign Service Retirement and Disability System. Subsequent enactment of new or more generous benefits, including salary increases, has increased the unfunded liability for the Agency for International Development's Foreign Service employees.

Accordingly, the Committee recommends the appropriation of the full amount, as requested, to cover this unfunded liability. An additional annual funding requirement will be considered as part of the President's fiscal year 1979 budget request.

FOREIGN MILITARY CREDIT SALES

Fiscal year 1978 appropriations to date	$675, 850, 000
Supplemental budget request	5, 000, 000
House allowance	None
Committee recommendation	None

The President has requested the appropriation of $5 million to provide financing for $50 million in fiscal year 1978 Foreign Military Sales (FMS) credits to help Lebanon rebuild its shattered internal defense forces. The proposed fiscal year 1978 program is part of a $100 million, 3-year program to assist Lebanon, with $25 million in FMS credits having been provided in fiscal year 1977 and an additional $25 million in FMS credits proposed for fiscal year 1979.

Lebanon is presently engaged in a desperate struggle to restore legitimate authority throughout its territory. In the aftermath of a prolonged civil war, portions of the country are occupied by Arab League Forces and a United Nations Peacekeeping Force. In the absence of effective control, the Lebanese Government has had to yield its authority to these forces in order to quell periodic outbreaks of violence.

The Government of Lebanon is working with the United States and other interested nations to re-equip the Lebanese army as a small and efficient internal security force capable of maintaining order. The proposed U.S. credits would be used by the Lebanese Government to purchase clothing, equipment, and some small arms.

At the time of Committee consideration of this request, legislation authorizing the appropriation of funds for this program had not been enacted into law. Therefore, the Committee recommends that the Senate await enactment of pertinent authorizing legislation before acting on this request for supplemental appropriations.

INDEPENDENT AGENCY

ACTION—International Programs

PEACE CORPS

Fiscal year 1978 appropriations to date	$82,900,000
Supplemental budget request	3,644,000
House allowance	None
Committee recommendation	None

The President has requested a fiscal year 1978 supplemental appropriation in the amount of $3,644,000 to provide additional funding for ACTION—International Programs or, more specifically, the Peace Corps. If appropriated, the funds would be used to provide positions and support for additional Peace Corps trainees and to give them additional skill and language training.

The new leadership of the Peace Corps has responded to congressional initiatives by shifting program emphasis toward intermediate technologies and other means of meeting the basic requirements of life at the village level. In the past, this Committee has encouraged the Peace Corps to develop urgently needed capabilities for programing volunteer activities in food, shelter, and health care assistance, and we wish to lend our support to these new efforts.

Over 2 years ago, in its fiscal year 1976 Report on Foreign Assistance and Related Programs Appropriations, this Committee stated its belief that, "the ultimate justification for the Peace Corps as an institution is its support of the volunteer in the field." The new leadership of the Peace Corps has indicated that it shares this belief by reprograming funds to counter mounting inflationary pressures overseas. Funding of volunteer living allowances, medical supplies, and services has been increased.

Having taken these steps, there now exists a need to improve training for Peace Corps volunteers in order that they may be prepared to serve in community projects addressing basic human needs and to make use of effective and appropriate technologies, many of which are specifically designed for use in the developing world and are unfamiliar to Peace Corps trainees. Moreover, if the volunteers are to work at the village level, to truly address the basic requirements of life in remote areas of the developing world, it is of particular importance that they have the ability to speak the local language. Funds requested in this supplemental are proposed precisely for these ends—improved skills training and language development will be provided to the volunteers.

Had the Congress been in a position to act on the request for supplemental funding at an earlier date, the Committee would have recom-

mended the appropriation of the full amount of the President's request. However, since it was unable to do so, not as much is required to fund the increased training for the remainder of the current fiscal year. The Committee has been informed that $2,265,000 would be an amount sufficient to meet the requirements for additional language and skills training for the remainder of this fiscal year.

At the time of Committee consideration of this request, legislation authorizing the appropriation of funds for this program had not been enacted into law. Therefore, the Committee recommends that the Senate await enactment of pertinent authorizing legislation before acting on this request for supplemental appropriations.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

Fiscal year 1978 appropriations to date	$59, 354, 000
Supplemental budget request	7, 480, 000
House allowance	7, 480, 000
Committee recommendation	7, 270, 000

The Committee recommends the appropriation of $7,270,000 in fiscal year 1978 supplemental funding for migration and refugee assistance.

African refugee programs under the administration of the United Nations High Commissioner for Refugees (UNHCR) are to receive $5 million of the $7,270,000 which the Committee recommends. The remaining $2,270,000 is to be used in the U.S. refugee program (USRP) to select, process, and transport 3,000 Indochinese refugees for resettlement in the United States.

The reduction made for Indochinese refugees will provide funding for transportation and related services, and reception and placement grant activity at the same per capita rate provided under the Supplemental Appropriations Act, 1978 (Public Law 95–240). In the view of the Committee, the administration did not adequately justify the increases requested for these activities and the Committee believes the amount contained in this bill can be made to adequately fund the resettlement of 3,000 refugees.

In Africa, civil strife and armed conflict, ranging from the Horn of Africa to Southern Africa, have swelled the number of refugees and displaced persons in need of immediate assistance. It is still too early to predict with any degree of precision the number of refugees resulting from the conflict in the Horn of Africa. The UNHCR estimates, however, that there are presently 1 million displaced persons who have fled from the Ogaden into Somalia and newly independent Djibouti.

Elsewhere in Africa, in Zaire, and in Southern Africa, hundreds of thousands of persons have sought refuge from the ravages of war. In Zaire, upwards of 50,000 Angolans and Cabindans are under the care of the UNHCR. In Southern Africa, well over 100,000 have fled from fighting in Rhodesia, and their number grows each day.

In Indochina, over 100,000 refugees, largely concentrated in camps in Thailand, await the opportunity to rebuild their shattered lives. It is estimated that approximately 12,500 of these qualify for inclusion in the U.S. refugee program, but most of them will be resettled in fiscal year 1979. This supplemental will provide funding for the resettlement of 3,000 refugees in fiscal year 1978.

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The Committee expects that it will address the organizational patterns and funding requirements of U.S. migration and refugee assistance programs in its report on fiscal year 1979 Foreign Assistance and Related Programs Appropriations. For the moment, however, we limit our discussion to the items in the proposed fiscal year 1978 supplemental appropriation, and we recommend that the Senate appropriate $7,270,000.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

Fiscal year 1978 appropriations to date	$10, 000, 000
Supplemental budget request	10, 000, 000
House allowance	2, 500, 000
Committee recommendation	2, 500, 000

The President has requested $10,000,000 in fiscal year 1978 supplemental funding to replenish the U.S. Emergency Refugee and Migration Assistance Fund.

The Foreign Relations Authorization Act for fiscal year 1976 (Public Law 94–141) established the Emergency Fund to enable the President to make an immediate response whenever an unexpected and urgent requirement for refugee and migration assistance arose. The terms of the authorizing legislation require the President to make a formal determination that the provision of assistance is important to our national interest before rendering aid to refugees and migrants. A series of Presidential determinations of need in the current fiscal year have resulted in successive drawdowns against the Emergency Fund, leaving only $250,000 available at the present time for emergencies.

The Committee notes that there is presently pending before the Congress a request for $15,000,000 in fiscal year 1979 funding to replenish the Emergency Fund. In anticipation of early congressional action on the fiscal year 1979 request, the Committee finds itself in accord with action taken by the House and so recommends to the Senate that it appropriate $2,500,000 in supplemental funding for the Emergency Fund.

Supplementary Financing Facility

INTERNATIONAL MONETARY FUND

The President has requested a supplemental fiscal year 1978 appropriation in the amount of $200,000,000, "to cover possible exchange losses from U.S. participation in the Supplementary Financing Facility of the International Monetary Fund (IMF)."

The House did not speak to this request for appropriations in its report on the Second Supplemental Appropriations Bill, 1978 (Report No. 95–1350), nor did it include the request in its comprehensive table entitled "Comparative Statement of New Budget (Obligational) Authority Estimates and Amounts Recommended in the Bill." Consequently, for purposes of comparability, this Committee has not included the request for appropriations for U.S. participation in the Facility in the table which follows this chapter. The Committee does believe, however, that this supplemental request, having been formally presented to the Congress, ought to be commented on here.

This Committee is unified in its opinion that an appropriation of funds equal to the full amount of U.S. participation must precede any U.S. commitment to participate in the Supplementary Financing Facility of the IMF. We further believe that, by intention or not, any pledge to commit U.S. resources to any international financial institution, which does not specify that those resources are subject to appropriation, would amount to a circumvention of the appropriations and budget control processes and would contravene Congressional efforts of recent years to ensure the rigorous exercise of the responsibilities and authority of the Congress with regard to budgetary matters. This position has been strongly endorsed by the Senate Budget Committee and the Chairman and Ranking Minority Member of the Senate Committee on Banking, Housing, and Urban Affairs.

On July 31, 1978, the Senate passed S. 2152 which authorized U.S. participation in the Supplementary Financing Facility to the extent that such amounts are appropriated in advance in appropriation acts.

Accordingly, this Committee recommends that no part of the requested $200,000,000 be appropriated in this supplemental appropriations bill. Should the Administration present to the Congress a timely fiscal year 1979 request for appropriation of funds equal to the full amount of the proposed U.S. participation in the Supplementary Financing Facility (approximate U.S. share: $1,800,000,000), the Committee will move expeditiously to consider that request.

INCREASED PAY COSTS

The following amounts in supplemental funding have been requested to meet increased pay costs resulting from the October 1977 Governmentwide pay raises. The Committee recommends the appropriations of $1,104,000 in budget authority and $475,000 in an increase in the administrative expense limitation for the Export-Import Bank to meet these increased costs.

	Supplemental request	House allowance	Committee recommendation
Operating expenses, Agency for International Development	[1] $6,352,000	0	0
ACTION—International programs (Peace Corps)	1,069,000	1,069,000	1,069,000
Department of State (migration and refugee assistance)	35,000	35,000	35,000
Export-Import Bank of the United States (increase in limitation on administrative expenses)	(495,000)	(475,000)	(475,000)

[1] Withdrawn by the President on June 14, 1978 (S. Doc. 95-110).

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Requested in H. Doc. 95-281 as amended by [1]	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER II					
	FOREIGN ASSISTANCE ACT ACTIVITIES					
	FUNDS APPROPRIATED TO THE PRESIDENT					
	ECONOMIC ASSISTANCE					
95-331	International organizations and programs	$9,500,000	$8,500,000	$9,500,000		+$1,000,000
	Payment to the Foreign Service Retirement and Disability Fund	2,770,000	2,770,000	2,770,000		
	FOREIGN MILITARY CREDIT SALES					
	Foreign military credit sales	5,000,000			−5,000,000	
	INDEPENDENT AGENCY					
	ACTION—INTERNATIONAL PROGRAMS					
	Peace Corps	3,644,000			−3,644,000	
	DEPARTMENT OF STATE					
95-331	Migration and refugee assistance	7,480,000	7,480,000	7,270,000	−210,000	−210,000
95-331	United States Emergency Refugee and Migration Assistance Fund	10,000,000	2,500,000	2,500,000	−7,500,000	
	Total, Department of State	17,480,000	9,980,000	9,770,000	−7,710,000	
	Total, chapter II: New budget (obligational) authority	38,394,000	21,250,000	22,040,000	−16,354,000	+790,000

[1] Documents are H. Doc. unless otherwise noted.

CHAPTER III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

RENT SUPPLEMENT PROGRAM

1978 appropriations to date	
1978 supplemental estimate	$24,300,000
House allowance	24,300,000
Committee recommendation	24,300,000

The Committee recommends an appropriation of $24,300,000 to pay for interim rent increases for fiscal year 1978 for eligible units now under rent supplement contracts as authorized by the Housing and Urban Development Act of 1965, as amended. This amount is identical to the budget request and the level of funding recommended by the House.

Under section 101 of the Housing and Urban Development Act of 1965, as amended, rent supplements are authorized on behalf of needy tenants living in privately owned, privately operated, and privately financed housing. Eligible tenants must pay 25 percent of their income toward the rent and the difference between the tenant payment and the actual rent is made up by a rent supplement payment made directly to the project owner.

The $24,300,000 recommended for one-year rent supplement adjustments will provide stop-gap assistance pending the implementation of the new troubled projects operating subsidy program, which should eliminate the need for future annual adjustments under the rent supplement program.

The amount recommended by the Committee in this bill should help stabilize the financial condition of projects receiving rent supplement assistance, thus reducing the number of insured projects entering the Federal Housing Administration's inventory of assigned and foreclosed properties.

INDEPENDENT AGENCIES

Environmental Protection Agency

RESEARCH AND DEVELOPMENT

1978 appropriations to date	$316,747,000
1978 supplemental estimate	1,400,000
House allowance	1,400,000
Committee recommendation	1,400,000

The Committee concurs with the House in recommending an appropriation of $1,400,000 to study the environmental effects of carbon/graphite and related fibers used in new structural material. The amount recommended is the same as the budget request.

The Environmental Protection Agency has been assigned responsibility for three facets of a comprehensive Federal effort to assess potential problems that could result from the widespread production and use of new, high strength, high rigidity lightweight composite materials comprised of carbon fibers embedded in epoxy resin binders. The Office of Science and Technology Policy (OSTP), which is coordinating the study, has charged EPA with: (1) devising a system of collecting and measuring samples of these fibers in stack emissions and ambient air; (2) analyzing the transport and fate of these materials in water; and (3) determining how these materials might be reasonably disposed of in the environment, including the possibility of incineration.

Although these new materials have found a broad spectrum of applications in the economy, it has been found that, due to their high conductivity, the fibers, when released into the atmosphere, can cause damage to electrical equipment or cause it to malfunction. According to EPA, the carbon/graphite fibers have created some isolated industrial problems, primarily in shorting electrical equipment. EPA has indicated that this study will require at least two years. The $1,400,000 provided by the Committee should fund EPA's graphite fiber activities in fiscal years 1978 and 1979.

ABATEMENT AND CONTROL

1978 appropriations to date	$513, 573, 000
1978 supplemental estimate	8, 000, 000
House allowance	8, 000, 000
Committee recommendation	8, 000, 000

The Committee recommends an appropriation of $8,000,000 for the support of State and local agencies in the development of revised State implementation plans (SIPs) under the air pollution control program. This amount is identical to both the budget request and the House passed bill.

Under the provisions of the Clean Air Act Amendments of 1977, increased burdens have been placed on State and local control agencies who play a major role in developing SIPs in those air quality control regions and interstate areas where ambient air quality standards are not attained. The amendments require that States revise their SIP emission limits on the basis of reasonably available control technology by January 1, 1979, with the adoption of other measures, such as control of transportation pollution sources, required between July of 1979 and July of 1982. State and local agencies will also have to place increased emphasis on new source review programs if the standards are to be attained and maintained in the future.

The funding recommended by the Committee should assist State and local air pollution control agencies in their efforts to attain and maintain ambient air quality protection for the public health and welfare.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

The Committee concurs with the House in recommending that the travel limitation of the Office of Science and Technology Policy be increased by $27,000, from $173,000 to $200,000. The increased limit on travel represents a decrease of $60,000 below the level requested by the Administration.

Section 401 of Public Law 95–119, the HUD-Independent Agencies Appropriation Act, 1978, limits travel expenditures to the amounts contained in agency budget estimates. After reviewing its fiscal year 1978 travel resource requirements, the Office estimated in January that an additional $87,000 would be needed to meet higher than anticipated travel costs in fiscal year 1978 resulting from an increased use of outside experts and panels. Although the Committee is sympathetic to these unexpected additional requirements, it believes that a relatively modest increase is sufficient in view of the fact that less than two months of the current fiscal year will remain by the time this legislation is signed into law.

National Commission on Air Quality

1978 appropriations to date	
1978 supplemental estimate	$2,000,000
House allowance	500,000
Committee recommendation	500,000

The Committee recommends $500,000 for the salaries and expenses of the National Commission on Air Quality, which is the same as the House approved amount and $1,500,000 below the budget request.

The National Commission on Air Quality was created by the Clean Air Act Amendments of 1977 to study and report to the Congress on a number of issues related to the achievement of national air quality goals. The Commission consists of 13 members. Nine have been appointed by the President. The remaining four commissioners are the chairmen and the ranking minority members of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce or their appointed delegates.

The Committee shares the House's skepticism over the Commission's ability to use the entire $2,000,000 requested in the current fiscal year. Although the President has recently completed the appointment of the full slate of nine public members to the Commission, the Commission is still, by any measure, in a formative stage of its development and organization. Therefore, the Committee believes that the $500,000 recommended in the bill should be sufficient to allow the Commission to meet all of its obligations during the remainder of the fiscal year.

Veterans Administration

COMPENSATION AND PENSIONS

1978 appropriations to date	$9,116,800,000
1978 supplemental estimate	489,600,000
House allowance	489,600,000
Committee recommendation	489,600,000

The Committee recommends an appropriation of $489,600,000 to cover the increased compensation and pension payments authorized by Public Law 95–117 (The Veterans Disability Compensation and Survivor Benefits Act of 1977) and Public Law 95–204 (The Veterans and Survivors Pension Adjustment Act of 1977.) This amount is the same as the budget request and the amount provided by the House.

Public Law 95–117 increases disability compensation, and dependency and indemnity compensation (DIC) rates by 6.6 percent and increases clothing allowance rates. Of the $489,600,000 provided by

the Committee, $358,400,000 would go to implement the provisions of this legislation.

The companion legislation, Public Law 95–204, increases by approximately 6.5 percent rates and income limits for current law pensioners and DIC parents; increases aid and attendance, and housebound benefits to eligible recipients; and increases the special aid and attendance allowance for current law veterans whose annual income exceeds the income limitation by less than $500. An estimated $131,200,000 of the amount recommended by the Committee would cover these requirements.

VETERANS INSURANCE AND INDEMNITIES

1978 appropriations to date	$2, 465, 000
1978 supplemental estimate	[1] 1, 000, 000
House allowance	
Committee recommendation	1, 000, 000

[1] Requested in Senate Document 95–113.

The Committee recommends an appropriation of $1,000,000 to cover unanticipated increases in payments to the National Service Life Insurance Fund. This amount is the same as the budget estimate. The House did not have an opportunity to consider this supplemental request.

Life insurance protection for the Nation's servicepersons, veterans, and their beneficiaries is provided under seven separate programs—six of which are administered directly by the Veterans Administration. These insurance programs are funded through this appropriation account, which supports the extra hazard costs of insuring disabled veterans.

The supplemental funding requested by the VA primarily reflects the impact of increases in the processing of routine death and disability claims; the granting of gratuitous awards totaling over $130,000; and the awarding of death claim settlements to survivors of persons previously listed as missing in action (MIA). To date, seven MIA claims totaling $78,841 have been paid. The amount recommended by the Committee would be paid directly to the National Service Life Insurance Fund and would cover an anticipated 40 additional cases to be resolved prior to the end of the current fiscal year.

MEDICAL CARE

1978 appropriations to date	$4, 721, 686, 000
1978 supplemental estimate	4, 288, 000
House allowance	4, 000, 000
Committee recommendation	4, 000, 000

The Committee recommends $4,000,000 to provide support for increased costs due to enactment of the Physician and Dentist Pay Comparability Amendments of 1977 (Public Law 95–201). This amount recommended is $288,000 below the budget request and the same as the House passed bill.

Public Law 95–201 extends the VA's authority to enter into special-pay agreements with physicians and dentists to September 30, 1978; provides English training for persons employed by the VA in any direct patient-care capacity within the Department of Medicine and Surgery who do not possess basic proficiency in spoken and written English; and makes other technical changes in existing law.

Approximately $3,942,000 of the amount recommended by the Committee will allow the Veterans Administration to enter into special-pay agreements with an estimated 865 full-time physicians, 300 part-time doctors and 210 full-time dentists.

The Committee agrees with the House that the $346,000 requested to provide English training to an estimated 60 Department of Medicine and Surgery direct care personnel ($5,750 per trainee) is excessive and that a less expensive training alternative for these employees should be developed. Therefore, the Committee has recommended only $58,000 for this training activity in fiscal year 1978 rather than the $346,000 requested by the VA.

GENERAL OPERATING EXPENSES

1978 appropriations to date	$550, 000, 000
1978 supplemental estimate	8, 600, 000
House allowance	6, 800, 000
Committee recommendation	6, 800, 000

The Committee recommends an appropriation of $6,800,000 for nonmedical administrative support costs to be incurred in implementing Public Law 95–202—the GI Bill Improvement Act of 1977. This figure is the same as the House passed bill but $1,800,000 less than the budget estimate.

As indicated in the House report, the major portion of the VA's request would be devoted to an increase in reporting allowance rates ($3,000,000); the cost of five special studies concerning veterans education matters ($1,500,000); and the support of additional counseling requirements ($3,800,000). Although the Committee recognizes the importance of counseling services to veterans, it concurs with the House in directing the Agency to apply the recommended $1,800,000 cut in the budget request to counseling activities and special studies.

In concurring with this reduction, the Committee is not indicating in any way that the Veterans' Administration should not be proceeding to carry out the five studies or the counseling activities, which are mandated by statute. Rather, the Committee directs the Veterans' Administration to find the necessary funds for these purposes in unobligated balances remaining for fiscal year 1978 and within the amounts appropriated for this account for fiscal year 1979.

ASSISTANCE FOR HEALTH MANPOWER TRAINING INSTITUTIONS

1978 appropriation	$49, 458, 000
1979 budget estimate	21, 589, 000
House allowance	3, 953, 000
Committee recommendation	3, 953, 000

The Committee concurs with the House allowance of $3,953,000 for the health manpower training institutions program. The amount recommended is $17,636,000 below the budget estimate.

Health manpower training grants are made to eligible applicants for the purpose of health manpower education and training expansion. Grants may be awarded to assist in the establishment of new State medical schools to be located in proximity to and operated in conjunction with VA hospitals; to help existing medical schools which are affiliated with the VA to expand and improve their training capacities; and, to assist other health manpower institutions affiliated with the VA to help in the coordination, improvement and expansion of the training of professional, technical, allied health and paramedical

personnel. Also, under this program grants may be made to expand and make necessary improvements to VA hospitals in order to make them suitable for use in health manpower education and training in cooperation with affiliated medical schools and other institutions.

The budget request of $21,589,000 was made under the assumption that the entire program would terminate following fiscal year 1979 and that funding for needs arising in future years must of necessity be provided in fiscal years 1978 and 1979 before the authorization for the program expired. The Committee concurs with the House view that this assumption is unrealistic. Therefore, the Committee has reduced the supplemental budget request by $17,636,000 to $3,953,000, the amount deemed necessary to cover increased costs of education facilities currently under construction at the new University of South Carolina Medical School in Columbia, S.C., for fiscal years 1978 and 1979.

Federal Home Loan Bank Board

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES

	Nonadministrative expenses
1978 limitation to date	$26,230,000
1978 supplemental estimate	250,000
House allowance	----------
Committee recommendation	----------

The Committee concurs with the House in denying the Federal Home Loan Bank Board's request for a $250,000 increase in the limitation on nonadministrative expenses for travel costs in fiscal year 1978. Travel obligations through the month of June, according to the Bank Board, totaled $3,339,000 or only 68 percent of the $4,900,000 budgeted for nonadministrative travel in fiscal year 1978. Therefore, the Committee agrees with the House that an increase of $250,000 is unwarranted at this time.

Increased Pay Costs

The Committee has before it a budget request of $311,145,000 to cover increased pay costs for the Department of Housing and Urban Development and other agencies.

The Committee agrees with a House reduction of $10,084,000 in this amount, based upon the most recent staffing information available, including higher levels of staff-years lapsed than anticipated in the January supplemental budget request. In addition to this cutback, the Committee recommends a reduction of an additional $6,000,000 in funding for HUD's management and administration and the approval of bill language shifting a like amount from the fiscal year 1978 appropriation for flood insurance. The amount transferred represents funding that HUD initially planned to reprogram into activities that were not approved by the Congress when it considered the Department's original fiscal year 1978 budget request.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

H. Doc. except as noted	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimate	Senate committee recommendation compared with (+ or −): House bill
	CHAPTER III					
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
	HOUSING PROGRAMS					
95-281	Rent supplement (contract authority)	$24,300,000	$24,300,000	$24,300,000		
	(Increased limitation for annual contract authority)	(24,300,000)	(24,300,000)	(24,300,000)		
	Total, Department of Housing and Urban Development (contract authority)	24,300,000	24,300,000	24,300,000		
	(Increased limitation for annual contract authority)	(24,300,000)	(24,300,000)	(24,300,000)		
	INDEPENDENT AGENCIES					
	ENVIRONMENTAL PROTECTION AGENCY					
95-281	Research and development	1,400,000	1,400,000	1,400,000		
95-281	Abatement and control	8,000,000	8,000,000	8,000,000		
	Total, Environmental Protection Agency	9,400,000	9,400,000	9,400,000		

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

H. Doc. except as noted	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimate	Senate committee recommendation compared with (+ or −): House bill
	NATIONAL COMMISSION ON AIR QUALITY					
95-281	Salaries and expenses	2,000,000	500,000	500,000	−$1,500,000	
	VETERANS ADMINISTRATION					
95-281	Compensation and pensions	489,600,000	489,600,000	489,600,000		
S. Doc. 95-113	Veterans insurance and indemnities	1,000,000		1,000,000		+$1,000,000
95-281	Medical care	4,288,000	4,000,000	4,000,000	−288,000	
95-281	General operating expenses	8,600,000	6,800,000	6,800,000	−1,800,000	
95-281	Assistance for health manpower training institutions	21,589,000	3,953,000	3,953,000	−17,636,000	
	Total, Veterans Administration	525,077,000	504,353,000	505,353,000	−19,724,000	+1,000,000
	FEDERAL HOME LOAN BANK BOARD					
95-281	(Limitation on nonadministrative expenses)	(250,000)			(−250,000)	
	Total, chapter III: New budget (obligational) authority	560,777,000	538,553,000	539,553,000	−21,224,000	+1,000,000
	Appropriations	536,477,000	514,253,000	515,253,000	−21,224,000	+1,000,000
	Contract authority	24,300,000	24,300,000	24,300,000		
	(Increase in limitations)	(250,000)			(−250,000)	( )
	(Increased limitation for annual contract authority)	(24,300,000)	(24,300,000)	(24,300,000)	( )	( )

CHAPTER IV

DEPARTMENT OF INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

1978 appropriations to date	$246, 938, 000
1978 supplemental estimate	53, 000, 000
House allowance	53, 000, 000
Committee recommendation	53, 000, 000

The Committee recommends an appropriation of $53,000,000, the same as the budget estimate and the House allowance, for costs of forest fire suppression. This amount will repay funds borrowed to cover FY 1977 firefighting costs and provide $20,000,000 for FY 1978 emergency firefighting, including $600,000 for rehabilitation costs.

PAYMENTS IN LIEU OF TAXES

The Committee has included bill language, in agreement with the House, to authorize correction of underpayments caused by administrative error or adjustments dictated by court decisions or administrative determinations. Given the complexities of entitlement computations, the large number of local governments involved, data insufficiencies and ambiguities, a mechanism for correction of underpayments is in the interest of equity.

U.S. Fish and Wildlife Service

RESOURCE MANAGEMENT

1978 appropriations to date	$169, 279, 000
1978 supplemental estimate	1, 583, 000
House allowance	1, 583, 000
Committee recommendation	1, 583, 000

The Committee recommends an appropriation of $1,583,000, the same as the budget estimate and the House allowance, for assistance to the State of Washington in continuing research and management responsibilities created by the Boldt decision. The court ruling requires that a system be prepared and implemented to provide an equitable distribution of the anadromous fishery resource. Existing data are not adequate to develop a program in compliance with the court decision.

The State has funded research and management initiatives with Federal appropriations in both fiscal year 1976 and 1977. Current revenues generated through the Washington Department of Fisheries and the Department of Game are not adequate to fund the additional responsibilities imposed by the federal court

Heritage Conservation and Recreation Service

LAND AND WATER CONSERVATION FUND

1978 appropriations to date	$600, 000, 000
1978 supplemental estimate	205, 000, 000
House allowance	205, 000, 000
Committee recommendation	205, 000, 000

The Committee recommends an appropriation of $205,000,000, the same as the budget estimate and the House allowance, for expenses required for the legislative taking of additional lands for Redwoods National Park.

Under the legislative taking process, title to these lands was transferred to the United States upon enactment of Public Law 95–250 on March 27, 1978. Just compensation to landowners will likely be determined by the U.S. District Court. Interest will accrue from the date of the taking, with the rate of interest determined by the court. Provision of advance funding will reduce the interest costs and make partial payment available to landowners.

Of the amount provided, $201,000,000 will be deposited in the District Court to demonstrate good faith on the part of the United States. The remaining $4,000,000 will be used to acquire small tracts and for survey, title, and appraisal costs. Estimates of the land value involved range from $359 million to as high as $600 million. Any additional needed funds can be provided after appraisals are completed and land value is determined.

The Committee shares the concern expressed by the House Committee over delays in Bureau of Land Management responses to survey requests. The Bureau has been given the responsibility of cadastral survey of the lands involved by the Secretary of the Interior, and the Committee expects BLM and NPS to coordinate survey requirements and avoid unnecessary delays.

National Park Service

OPERATION OF THE NATIONAL PARK SYSTEM

1978 appropriations to date	$323, 105, 000
1978 supplemental estimate	2, 750, 000
House allowance	2, 750, 000
Committee recommendation	2, 750, 000

The Committee recommends an appropriation of $2,750,000, the same as the budget request and the House allowance, to cover the costs of forest fire suppression and rehabilitation of burned areas in parks. During the 1977 fire season, 885 wildfires occurred in National Park Service areas, including a fire at Bandelier National Monument which destroyed more than 10,000 acres and threatened the city of Los Alamos, New Mexico.

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

1978 appropriations to date	$677, 181, 000
1978 supplemental estimate	16, 113, 000
House allowance	21, 310, 000
Committee recommendation	19, 310, 000

The Committee recommends an appropriation of $19,310,000, a reduction of $2,000,000 in the House allowance and an increase of $3,197,000 over the budget estimate. Funding recommended covers contract support costs, social services, and fire suppression and rehabilitation costs.

The House allowance provided $10,610,000 for both contract support and pay costs for tribal contract employees under Public Law 93-638. Although section 106(b) of that Act requires that BIA provide funds to contract operations at a level not less than would have been provided for direct operation, the Committee does not agree that this provision automatically guarantees all contract employees a Federal pay rate. Accordingly, the Committee has not designated any funding for contract pay costs. The Committee, however, does recognize the shortfall in the indirect costs of self-determination contract funding, and the $8.6 million recommendation is to supplement these overhead expenses.

For social services, the Committee recommends $3,700,000, the same as the House and a decrease of $2,457,000 below the budget estimate. The funding is necessitated by sharp increases in grant assistance unit costs and increased emergency assistance resulting from severe winter weather conditions on western reservations.

The Committee recommends the full $7 million budget estimate for fire fighting and emergency rehabilitation costs of Indian forests and rangelands.

CONSTRUCTION

1978 appropriations to date	$64, 153, 000
1978 supplemental estimate	----------
House allowance	----------
Committee recommendation	825, 000

The Committee recommends an appropriation of $825,000 to make major repairs to the Crow and Fort Belknap irrigation projects destroyed or damaged by spring floods. The damage to these irrigation projects will result in the loss of nearly $5 million in annual agricultural production from the area. Funding provided at this time will expedite repairs before winter arrives.

Office of Territorial Affairs

ADMINISTRATION OF TERRITORIES

1978 appropriations to date	$21, 105, 000
1978 supplemental estimate	14, 000, 000
House allowance	54, 000, 000
Committee recommendation	39, 000, 000

The Committee recommends an appropriation of $39,000,000, increasing the budget estimate by $25,000,000 and decreasing the House allowance by $15,000,000.

The level recommended by the Committee deletes House increases totaling $15,000,000 for assistance to Guam. Increases were partly for typhoon rehabilitation and partly for health, education, and public safety programs. In addition to direct assistance provided in this bill, Federal grants-in-aid awarded to Guam in fiscal year 1976 amounted to $37.4 million, and in fiscal year 1977 the total rose to $54.6 million. Most of these grants required no matching share from Guam. The Committee expects the Department to develop a sound fiscal program for Guam that does not rely on ever-increasing Federal funding.

The Committee concurs in the House allowance of $25,000,000 for purchase of a modern health care facility on Guam, formerly operated by the Catholic diocese on Guam as the Medical Center of the Marianas. The Government of Guam has proposed a plan to purchase the medical center and use the government-owned Guam Memorial Hospital as a long-term care facility. The Committee recommends that the $25,000,000 be disbursed pursuant to a plan for effective health care management to be approved jointly by the Secretary of Interior and the Secretary of Health, Education, and Welfare. This plan shall specify the purposes for which the funds will be spent and include specific conditions relative to health, safety, and hospital management considerations. This grant should be subject to pre- and post-award monitoring.

In agreement with the House, the Committee recommends the full budget request of $14,000,000 for grants to the Virgin Islands as authorized by Public Law 95–134. The funding will be used to offset revenue losses as a result of the Tax Reform Act of 1976. Without additional funding at this time, the Virgin Islands would experience a fiscal 1978 deficit of more than $22 million.

TRUST TERRITORY OF THE PACIFIC ISLANDS

1978 appropriations to date	$110, 444, 000
1978 supplemental estimate	5, 549, 000
House allowance	7, 809, 000
Committee recommendation	5, 049, 000

The Committee recommends an appropriation of $5,049,000, decreasing the budget estimate by $500,000 and the House allowance by $2,760,000.

For the Government of the Northern Mariana Islands, the Committee recommends the full budget estimate of $2,549,000, in agreement with the House. This will supplement the $13,515,000 previously appropriated in accordance with the provisions of Public Law 94–241, and will be used for operations, capital improvements, and the establishment of an economic development loan fund.

The Committee recommends the budget estimate of $600,000 for compensation of the people of Rongelap and Utirik atolls who were exposed to radioactive fallout in March, 1954. The funding will cover compensation for known cases and establish a reserve for expected new cases.

For completion of an aerial radiological survey of the Northern Marshall Islands, the Committee recommends $1,900,000. The $500,000 reduction below the budget request is to offset funding provided earlier by reprogramming. Based on reestimates of survey costs, the recommendation is also $1,960,000 below the House allowance.

The Committee is disturbed by the repeated changes in cost estimates from the Navy Department, which is conducting the survey. The fiscal 1977 Supplemental Appropriation Act provided $2.6 million to complete the survey by January, 1978. The cost now has risen to $5 million, with an expected completion date of November, 1978. The Committee expects the Departments of Navy, Energy, and Interior to complete the survey on time and within the $5 million estimate advanced by the Navy in April of 1978.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Forest Service

FOREST PROTECTION AND UTILIZATION

1978 appropriations to date	$688, 465, 000
1978 supplemental estimate	204, 000, 000
House allowance	204, 000, 000
Committee recommendation	194, 000, 000

The Committee recommends an appropriation of $194,000,000, decreasing the budget estimate and the House allowance by $10,000,000. The reduction is to be applied to presuppression costs, which have increased dramatically over the past several years. The Committee feels that savings can be made in this area, especially in light of the fact that presuppression activities are augmented significantly by various employment and training programs such as CETA and YACC.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

1978 appropriations to date	$608, 950, 000
1978 supplemental estimate	----------
House allowance	12, 000, 000
Committee recommendation	12, 000, 000

The Committee recommends an appropriation of $12,000,000, in agreement with the House, for design studies on demonstration plants for solvent refined coal processes, both solid (SRC I) and liquid (SRC II). This funding, to be equally divided between SCR I and SCR II, should provide the government with the technical and financial information needed to proceed on the original schedule to design and build demonstration plants for the production of synthetic fuels.

ECONOMIC REGULATORY ADMINISTRATION

1978 appropriations to date	$84, 240, 000
1978 supplemental estimate	(1)
House allowance	6, 000, 000
Committee recommendation	6, 000, 000

[1] Budget proposed $6,000,000 by transfer.

The Committee recommends an appropriation of $6,000,000, in agreement with the House, to increase compliance audits of 18 major oil refiners. The audits will be accomplished primarily through contracting, and will be completed by 1980. The Department of Energy will be expected to take all possible steps to avoid potential conflicts of interest in hiring contractors.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

INDIAN HEALTH SERVICE

1978 appropriations to date	$428, 891, 000
1978 supplemental estimate	2, 888, 000
House allowance	2, 241, 000
Committee recommendation	2, 241, 000

The Committee recommends an appropriation of $2,241,000, the same as the House allowance and a decrease of $647,000 below the budget estimate. This recommendation provides $1,750,000, the full budget estimate, for increased salary costs related to upgrading GS classification of public health nurses. The new salary levels became effective in February, 1978.

The Committee recommends $491,000 for initial health care funding for the newly recognized Penobscot and Passamaquoddy Tribes of Maine, the same as the House level. This reduces the budget estimate by $647,000, but will not affect services since the reduction is based solely on timing of the supplemental appropriation bill.

The Committee concurs in the House bill language appropriating an estimated $10 million in collections from Medicaid and Medicare payments for FY 1978. Such payments are to be placed in a special fund to be used for facility improvements. The language prohibits funding for design, planning, construction or major renovation of facilities.

Indian Claims Commission

1978 appropriations to date	$1, 500, 000
1978 supplemental estimate	300, 000
House allowance	200, 000
Committee recommendation	200, 000

The Committee recommends an appropriation cf $200,000, the same as the House allowance and a decrease of $100,000 below the budget estimate, to continue operation of the Indian Claims Commission. The Commission is scheduled to terminate at the end of fiscal year 1978, and the supplemental request is to cover unusual closing expenses such as lump sum leave payments and severance pay. The reduction is based on revised estimates of these costs and the estimated reimbursement to GSA for administrative services.

Navajo and Hopi Relocation Commission

1978 appropriations to date	$2, 050, 000
1978 supplemental estimate	405, 000
House allowance	123, 000
Committee recommendation	123, 000

The Committee recommends an appropriation of $123,000, the same as the House allowance and a decrease of $282,000 below the budget estimate. The request is based upon the need to hire additional staff to respond to requests for voluntary relocation assistance in excess of original estimates. The budget reduction is based solely on the time remaining in the fiscal year.

Smithsonian Institution

SALARIES AND EXPENSES

1978 appropriations to date	$88, 238, 000
1978 supplemental estimate	1, 100, 000
House allowance	580, 000
Committee recommendation	580, 000

The Committee recommends an appropriation of $580,000 for utility costs, the same as the House allowance and a decrease of $520,000 below the budget estimate.

National Gallery of Art

SALARIES AND EXPENSES

1978 appropriations to date	$14, 509, 000
1978 supplemental estimate	720, 000
House allowance	500, 000
Committee recommendation	500, 000

The Committee recommends an appropriation of $500,000, the same as the House allowance and a decrease of $220,000 below the budget estimate, for increased utility costs. The funding is necessary because of increased electricity rate charges and low initial estimates of steam consumption for the connecting link and the new East Building. These costs can be offset by expected savings in personnel costs.

Joint Federal-State Land Use Planning Commission for Alaska

1978 appropriations to date	$712, 000
1978 supplemental estimate	139, 000
House allowance	139, 000
Committee recommendation	--------

The Committee has denied the budget request of $139,000 for increased operating costs of the Commission. By law, the Federal contribution cannot exceed the State funding. The Alaska State legislature did not provide the required matching funds.

Increased Pay Costs

The Committee considered requests totaling $126,765,000 for increased pay costs of agencies in the Department of the Interior as well as many independent agencies The Committee recommends an appropriation of $122,081,000, the same as the House allowance, to cover these costs.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

H. Doc. except as noted	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER IV					
	DEPARTMENT OF THE INTERIOR					
	LAND AND WATER RESOURCES					
	BUREAU OF LAND MANAGEMENT					
95-281	Management of lands and resources	$53,000,000	$53,000,000	$53,000,000		
	FISH AND WILDLIFE AND PARKS					
	UNITED STATES FISH AND WILDLIFE SERVICE					
95-281	Resource management	1,583,000	1,583,000	1,583,000		
	HERITAGE CONSERVATION AND RECREATION SERVICE					
95-331	Land and Water Conservation Fund	205,000,000	205,000,000	205,000,000		
	NATIONAL PARK SERVICE					
95-281	Operation of the national park system	2,750,000	2,750,000	2,750,000		
	Total, Fish and Wildlife and Parks	209,333,000	209,333,000	209,333,000		
	INDIAN AFFAIRS					
	BUREAU OF INDIAN AFFAIRS					
95-331	Operation of Indian Programs	16,113,000	21,310,000	19,310,000	+$3,197,000	−$2,000,000
	Construction			825,000	+825,000	+825,000
	Total, Bureau of Indian Affairs	16,113,000	21,310,000	20,135,000	+4,022,000	−1,175,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

H. Doc. except as noted	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	OFFICE OF TERRITORIAL AFFAIRS					
95-331	Administration of territories	$14,000,000	$54,000,000	$39,000,000	+$25,000,000	−$15,000,000
95-331	Trust Territory of the Pacific Islands	5,549,000	7,809,000	5,049,000	−500,000	−2,760,000
	Total, Territorial Affairs	19,549,000	61,809,000	44,049,000	+24,500,000	−17,760,000
	Total, Department of the Interior	297,995,000	345,452,000	326,517,000	+28,522,000	−18,935,000
	RELATED AGENCIES					
	DEPARTMENT OF AGRICULTURE					
	FOREST SERVICE					
95-281	Forest protection and utilization: Forest land management	204,000,000	204,000,000	194,000,000	−10,000,000	−10,000,000
	DEPARTMENT OF ENERGY					
	Fossil energy research and development		12,000,000	12,000,000	+12,000,000	
	Economic Regulatory Administration		6,000,000	6,000,000	+6,000,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

H. Doc. except as noted	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
95-331	(By transfer)	($6,000,000)			(−$6,000,000)	
	Total, Department of Energy		$18,000,000	$18,000,000	+18,000,000	
	(By transfer)	(6,000,000)			(−6,000,000)	
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE					
	HEALTH SERVICES ADMINISTRATION					
95-281	Indian health services	2,888,000	2,241,000	2,241,000	−647,000	
	INDIAN CLAIMS COMMISSION					
95-331	Salaries and expenses	300,000	200,000	200,000	−100,000	
	NAVAJO AND HOPI INDIAN RELOCATION COMMISSION					
95-281	Salaries and expenses	405,000	123,000	123,000	−282,000	
	SMITHSONIAN INSTITUTION					
95-281	Salaries and expenses	1,100,000	580,000	580,000	−520,000	
95-281	Salaries and expenses, National Gallery of Art	720,000	500,000	500,000	−220,000	
	Total, Smithsonian Institution	1,820,000	1,080,000	1,080,000	−740,000	
	JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA					
95-331	Salaries and expenses	139,000	139,000		−139,000	−$139,000
	Total, Chapter IV:					
	New budget (obligational) authority	507,547,000	571,235,000	542,161,000	+34,614,000	−29,074,000
	(By transfer)	(6,000,000)			(−6,000,000)	

CHAPTER V

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

EMPLOYMENT AND TRAINING ASSISTANCE

1978 appropriation to date	$3, 440, 930, 000
President's supplemental request	76, 540, 000
House allowance	
Committee recommendation	

The Committee concurs with the House in recommending no additional funding for Employment and Training Assistance. The President's budget request of $76,540,000 was intended to meet increased minimum wage costs without having to reduce the number of enrollees in employment and training programs. Since very little time remains in the fiscal year, however, it is evident that most of the increased minimum wage costs, which took effect January 1, 1978, have been absorbed.

The Committee has approved both appropriations language changes included in the House bill, as requested by the administration:

First, a bill language change permits retraining workers displaced due to expansion of the Redwood National Park in California. It also allows unemployed forest industry workers to receive job search and relocation allowances. During fiscal year 1978, existing appropriations, amounting to less than $100,000, will be utilized for services to an estimated 25 forestry workers.

Second, a bill language change extends for 1 additional year the availability of $120 million previously appropriated for the HIRE program—"Help through Industry Retraining and Employment." This program is intended to stimulate private-sector hiring and training of unemployed veterans. Every effort should be made to concentrate services on disabled and Vietnam-era veterans. The Committee expects the Department to keep it informed of progress toward implementing this program, particularly with respect to major changes from the original program design. It is still the Committee's intent that these funds be utilized entirely for veterans' employment and training services. HIRE should not be expanded to include nonveteran clients, since a variety of employment and training programs are available to assist other worker groups.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

1978 appropriation to date	$190, 400, 000
President's supplemental request	30, 000, 000
House allowance	21, 300, 000
Committee recommendation	21, 300, 000

The Committee recommends $21,300,000, the same as the House allowance and a $8,700,000 reduction from the President's request.

This program provides part-time jobs for low-income persons, age 55 and over, in a variety of community improvement projects.

The additional funds are necessary to sustain the current level of 47,500 enrollees at the new minimum wage, which increased from $2.30 to $2.65 per hour on January 1, 1978. Starting on January 1, 1979, the minimum wage will increase to $2.90 per hour. Fiscal year 1978 appropriations finance a program year extending from July 1, 1978 through June 30, 1979.

The reduction from the budget request takes into account the fact that less funds are needed to cover the remaining time period subsequent to enactment of this supplemental.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

1978 appropriation to date	$1,200,000,000
President's supplemental request	(1)
House allowance	(1)
Committee recommendation	(1)

[1] Bill language.

The Committee concurs with the House in recommending bill language requested by the administration. This appropriations language permits utilization of existing funds to pay jobless benefits to and on behalf of workers displaced due to expansion of the Redwood National Park in California. Language is also included under the Employment and Training Assistance account to permit retraining and related services for workers displaced due to the Redwood Park expansion.

Recently enacted legislation expanding the Redwood National Park contained specific employee protection provisions, to be financed with Federal funds. Layoff payments may continue through September, 1984 guaranteeing workers with at least 5 years of forest industry service an amount equal to the previous rate of pay. Continuation of health, welfare, and pension rights is also mandated by the legislation, Public Law 95–250. For those workers with less than 5 years' service, and others who so choose, a lump-sum severance payment can be made instead of weekly benefits. An estimated 200 individuals are expected to file claims for these benefits, costing about $1,800,000 during fiscal year 1978.

Labor-Management Services Administration

SALARIES AND EXPENSES

1978 appropriation to date	$55,961,000
President's supplemental request	956,000
House allowance	----------
Committee recommendation	----------

The Committee concurs with the House in recommending no additional appropriations for the Labor-Management Services Administration, for which a supplemental of $956,000 was requested.

Denial of the $311,000 and 28 new positions requested for private-sector industrial relations activities does not reflect the Committee's disapproval of this program; instead, it reflects the viewpoint that additional funding is not necessary during the short time remaining in fiscal year 1978. The Labor-HEW Appropriations Subcommittee has

already approved $600,000 and 28 positions for private-sector industrial relations initiatives in the fiscal year 1979 regular bill.

Due to lateness in the fiscal year, it was likewise felt that the $645,000 requested for the Special Election Fund was not needed. This fund provides a contingency reserve for necessary costs of unanticipated union election investigations and reruns. The fiscal year 1979 Labor-HEW bill includes an additional $645,000 for the Special Election Fund, raising the total available to $1,000,000.

The Committee has received the reports submitted to Congress on June 30, 1978, by the Pension Benefit Guaranty Corporation regarding the multiemployer termination insurance program and the contingent employer liability insurance (CELI) program.

The Committee is concerned that these reports both have significant budgetary as well as program implications. Particularly with respect to multiemployer pension plans, there appears to be a strong likelihood that absent legislative changes, intolerable burdens may be placed on the Corporation's insurance system when coverage becomes mandatory on July 1, 1979.

The Committee believes it imperative that the Corporation and the Department of Labor make technical judgments as to the best means by which the statute can be modified, within the original intent of ERISA, and submit specific legislative recommendations to Congress as soon as possible but in no event later than November 1, 1978.

Employment Standards Administration

SALARIES AND EXPENSES

1978 appropriation to date	$111,280,000
President's supplemental request	940,000
House allowance	165,000
Committee recommendation	165,000

The Committee concurs with the House in allowing $165,000, a reduction of $775,000 from the budget request, for the Employment Standards Administration.

The additional funds will provide for 100 new permanent positions, including 90 compliance officers, to permit the Department to more adequately process the backlog of complaints cases under the Fair Labor Standards Act. A significant portion of the augmented workload results from complaints alleging violations of the new minimum wage law, which became effective January 1, 1978. The reduced dollar amount from the $940,000 requested reflects a more realistic hiring schedule than that assumed in the budget.

Occupational Safety and Health Administration

SALARIES AND EXPENSES

1978 appropriation to date	$136,640,000
President's supplemental request	(1)
House allowance	(2)
Committee recommendation	(1)

[1] Bill language.
[2] Not considered.

The Committee has included Appropriations bill language requested by the Administration to raise the limitation for furnishing on-site consultation services to employers under section 7(c)(1) of the Occupational Safety and Health Act from $9,000,000 to $11,000,000.

No additional appropriation is necessary, since the funds will be reprogramed from excess consulting contracts resources. This would permit OSHA to reimburse States for an additional 2,200 on-site workplace consultations, and would allow OSHA to reach its goal of consultation services available to employers throughout the United States during fiscal year 1978.

It should be noted that the fiscal year 1979 Labor-HEW bill eliminates the bill language spending limitation on consultation services entirely, and further increases on-site consultation appropriations under section 7(c)(1) to $12,500,000.

The need for expanding section 7(c)(1) on-site consultation services spending is partially the result of compliance with previous Committee directives encouraging utilization of consultation services through increased Federal matching.

Mine Safety and Health Administration

SALARIES AND EXPENSES

1978 appropriation to date	$102, 854, 000
President's supplemental request	9, 433, 000
House allowance	8, 000, 000
Committee recommendation	8, 000, 000

The Committee concurs with the $8,000,000 House allowance, a reduction of $1,433,000 below the budget request. The full level of 475 new positions has been approved, but the dollar level has been adjusted to reflect a more realistic hiring schedule than that assumed in the budget.

Recent legislation transferred this agency to the Labor Department, effective March 9, 1978. The new law significantly expanded the level of enforcement activity required for the Nation's mines. For example, underground mines must be inspected at least four times a year, compared to once a year previously. Surface mines must be inspected at least twice annually, where there was no specific prior requirement.

To carry out these mandated new activities under the Federal Mine Safety and Health Act Amendments of 1977, the following additional staff resources are provided: 374 enforcement positions; 20 staff for development and promulgation of standards; 81 Office of Assessment positions, to determine civil monetary penalties for all violations; and 20 technical support personnel.

As did the House, the Committee recommends $3,700,000 requested for increased pay costs resulting from the October 1977, Government-wide pay raise. Although the total cost of this pay raise is $4,640,000, the agency is expected to absorb $940,000 within existing appropriations.

Bureau of Labor Statistics

SALARIES AND EXPENSES

1978 appropriation to date	$84, 366, 000
President's supplemental request	536, 000
House allowance	----------
Committee recommendation	----------

The Committee concurs with the House in recommending no supplemental appropriations for the Bureau of Labor Statistics. The budget request of $536,000 was originally intended to begin collection of private-sector employee benefits data, but plans for this activity are behind schedule. Adequate funds for this purpose are included in the pending fiscal year 1979 Labor-HEW Appropriations bill, affording more time to complete plans for this data collection.

Departmental Management

SALARIES AND EXPENSES

1978 appropriation to date	$60, 257, 000
President's supplemental request	2, 738, 000
House allowance	2, 323, 000
Committee recommendation	1, 900, 000

The Committee recommends $1,900,000 for Departmental Management activities, for which the House allowed $2,323,000 of the requested $2,738,000.

The Committee concurs with the House in recommending 82 new permanent positions, consisting of 72 for the Office of the Solicitor, and 10 for the Minimum Wage Study Commission. The $423,000 reduction from the House allowance, however, reflects the availability of existing unspent funds to partially fund these positions for the balance of the fiscal year. Funds have also been included, as recommended by the House, to finance additional temporary employment required to enable the Department to keep pace with expanding workload under the Trade Adjustment Assistance program. In addition, funds have been included to support the study of occupationally related pulmonary and respiratory diseases, as recommended by the House.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center For Disease Control

PREVENTIVE HEALTH SERVICES

1978 appropriation to date	$211, 505, 000
President's supplemental request	15, 000, 000
House allowance	
Committee recommendation	1, 500, 000

The Committee has allowed zero for the flu program. This is a reduction of $15,000,000 from the President's budget request but the same as the House allowance.

The liability question remains the key as far as the Committee is concerned. Due to excessive delays in HEW providing the Committee with a report on liability and because of past experience with the swine flu program, it was felt that preparation for this should be delayed until further scientific and legal questions are answered.

The Committee's hearing relating to this program raised serious questions as to the effectiveness of the vaccine and the distribution and acceptance from the various State agencies. Conflicting information has also been received relating to the number of clinical trials conducted. It is the Committee's understanding that the origin

intent was to test 600 children and, to date, only 280 have gone through clinical trials. Because this is more than a one-time commitment, authorizing legislation must first be enacted before such a commitment to a long-term program can be made. Further, there is in no way a guarantee that this proposed public flu program will reach any more people than are now being reached through the private sector. It is feared that, to a large degree, this initiative would have just replaced private sector immunization efforts.

From the above points and because it is now possible that the cost per dose may be double what HEW had originally estimated and that in approximately 18 months HEW's General Counsel will complete a study of vaccination programs and liability, the Committee has allowed no funding for this program.

The Committee has included $1,500,000 to design an addition to the Appalachian Laboratory for Occupational Health and Safety. Twice in the past 2 years HEW, at the direction of conferees on the Labor-HEW Appropriation Bill, have submitted studies to the Committee indicating the need for and recommending construction of an addition to this laboratory. The latest report transmitted to the Committee by the Undersecretary of HEW recommends that a new research facility should not be built and that NIOSH mining activities be located in Morgantown, W. Va., by constructing an addition to the existing facility.

National Institutes of Health

National Institute of Allergy and Infectious Diseases

1978 appropriation to date	$161,042,000
President's supplemental request	
House allowance	3,000,000
Committee recommendation	0

The Committee has allowed zero for the National Institute of Allergy and Infectious Diseases. This is $3 million less than the House allowance but the same as the budget request.

It is understood that clinical trials in the area of flu vaccinations have already been conducted and no further research is neecssary at this time.

Health Resources Administration

HEALTH RESOURCES

1978 appropriation to date	$786,869,000
President's supplemental request	
House allowance	628,252
Committee recommendation	

The Committee has provided zero funding for Health Resources programs. This is the same as the President's budget request and $628,252 less than the House allowance. The Committee has, however, provided bill language which was requested by HEW to utilize formula grant funds previously appropriated under title 16 of the Public Health Service Act entirely for project grants under the authority of section 1625 of the Public Health Service Act. The language also extends the availability of the funds through September 30, 1979.

Approximately $40,000,000 of formula allotments to States remain unobligated at this time. It has become clear that title XVI will not be sufficiently implemented by the State and local planning agencies to allow obligation of the formula grants before the current appropriation expires on September 30, 1978. Under the authority of section 1625 of the PHS Act, project grants will only be awarded to public and quasi-public facilities. These funds will be limited to supporting projects designed to eliminate safety hazards, and for modernization necessary to comply with licensure and accreditation standards. The Committee wishes to make clear that these funds are not available for the construction of new beds or for the expansion of bed capacity.

The Committee has deleted the House allowance of $628,252 and has agreed with the President's budget request of no increased funds for Health resources, special project grants to schools of optometry. The fiscal year 1978 bill already contains nearly $4 million for special projects. It is the Committee's understanding that many of the existing grants have funds left over and HEW has allowed these programs to keep this money which will provide for an orderly phaseout. The House level, it should be noted, is also just for optometry programs. The Committee also considers this to be a high priority and notes that all of the other medical, osteopathic, dental, veterinary, podiatry, and pharmacy schools would be excluded from this. In order to fund these projects up to the same level would require an additional $10 million to $15 million.

Alcohol, Drug Abuse and Mental Health Administration

CONSTRUCTION AND RENOVATION, ST. ELIZABETHS HOSPITAL

1978 appropriation to date	$2, 010, 000
President's supplemental request	55, 300, 000
House allowance	52, 200, 000
Committee recommendation	----------

The Committee has allowed no funding for renovation and construction at St. Elizabeths Hospital in the District of Columbia. This is a reduction of $55,300,000 below the President's request and $52,200,000 below the amount provided by the House. The Committee continues to be very concerned over the type, care, and treatment for those patients at St. Elizabeths Hospital. However, for numerous years, the Committee has been told that a comprehensive plan, both for the facility and for mental health services in the District of Columbia, was being prepared. That plan has yet to be received. Without that information and without a commitment from the District of Columbia, the Committee feels that additional funds in this area could not be allowed at this time. It is important to note that when such a plan is received, the Committee will once again review funding for this facility.

Health Care Financing Administration

QUALITY CARE MANAGEMENT, RESEARCH AND ADMINISTRATION

1978 appropriation to date	$148, 090, 500
President's supplemental request	1, 063, 000
House allowance	400, 000
Committee recommendation	----------

The Committee has not provided any of the funds and positions requested to expand medicaid's quality control function. The Administration had requested 125 positions and $1,063,000 to reduce ineligibility and payment errors in the medicaid program for low-income families. This was designed to save a total of $272 million by fiscal year 1979. The House had allowed the 125 positions but reduced the dollar allowance by $663,000 to reflect a more realistic hiring schedule in view of the timing of the Supplemental.

The Committee disallowed the entire request. The Committee has allowed positions for medicaid quality control in the past which have apparently evaporated into the bureaucracy with no effect on reduced rates of ineligibility and payment errors.

The Committee is skeptical of a repeat of its experience with AFDC quality control. After investing hundreds of positions in this highly touted effort, the Administration decided to yield to the States' objections and drop the enforcement of sanctions for poor State performance. The recent court decision which ruled the 3 and 5 percent tolerance levels to be arbitrary left open several alternatives for the Administration to pursue. The Committee wants to see more followthrough in the area of welfare payments before supporting a parallel effort in the medicaid area.

LIMITATION ON ADMINISTRATIVE EXPENSES

1978 appropriation to date	$652, 780, 300
President's supplemental request	36, 797, 000
House allowance	18, 797, 000
Committee recommendation	----------

The Committee has not provided funds for increased medicare claims processing costs. The President had requested $36,797,000, of which the House allowed $18,797,000. The $18 million reduction reflects half year costs due to the timing of the supplemental. $15 million of this amount is for a contingency reserve account.

The Committee feels that the $3.8 million that was actually intended for medicare claims processing costs can be absorbed within the $652.8 million previously provided for medic are administrative expenses.

OFFICE OF EDUCATION

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

1978 appropriation to date	$800, 000, 000
President's supplemental request	31, 000, 000
House allowance	5, 000, 000
Committee recommendation	5, 000, 000

The Committee recommends $5,000,000, the same as the House allowance and a reduction of $26,000,000 below the supplemental request for disaster assistance under the School Assistance in Federally Affected Areas or Impact Aid program.

The $5,000,000 recommended by the Committee will provide major disaster assistance to school districts that have had facilities damaged by storms, earthquakes, floods, and other presidentially declared disasters. The Federal Government has been providing this type of assistance since 1965. Payments for major disaster assistance have

averaged $12,000,000 a year. It is currently estimated that $5 to $7 million will be available in the maintenance and operations portion of the Impact Aid program which, in combination with the $5,000,000 in the bill, will be sufficient to meet major disaster needs. Major disaster assistance funds are used to replace or repair facilities, equipment, and materials seriously damaged or destroyed; funds may also be used to lease school facilities while damaged buildings are being replaced or restored.

The Committee agrees with the House in not allowing the $26,000,000 requested for so-called "pinpoint disaster" payments. Pinpoint disasters involve schools which have been damaged by local disasters where the governor of a State has certified the need for disaster assistance. This program was authorized in 1968 but has never been funded. This is the first time the President has requested funds for pinpoint disasters. In most instances, damages caused by local pinpoint disasters have already been repaired with State and local funds. This is especially true for many of the claims which are as much as 10 years old. A majority of the applications are for less than $10,000. The Committee sees little justification to fund this program. There does not appear to be a Federal responsibility to provide funds to repair damages caused by localized disasters.

EMERGENCY SCHOOL ASSISTANCE

A reinterpretation of the Emergency School Aid Act by the Office of Education has made several isolated, primarily Spanish and Indian school districts, ineligible for ESAA grants. These districts had previously received grant awards under ESAA.

The Committee directs the Office of Education to continue to provide funds to these school districts with fiscal 1978 funds. The Office of Education should review the decision not to provide funds to these school districts and justify its actions during the next education hearings before the Committee.

EDUCATION FOR THE HANDICAPPED

1978 appropriation to date	$622, 825, 000
President's supplemental request	----------
House allowance	37, 800, 000
Committee recommendation	37, 800, 000

The Committee concurs with the House in recommending an additional $37,800,000 for the Education for the Handicapped State grant program. There was no supplemental request. These funds would be available to assist school districts with the education of handicapped students during the 1978–79 school year. When combined with the $465,000,000 already appropriated in fiscal year 1978, and approximately $62,000,000 in carry-over funds from fiscal 1977, the total amount available for the State grant program in school year 1978–79 would be $564,800,000. Based upon the latest information from the Secretary of HEW, this is the amount required to fully fund 10 percent of the national average per pupil expenditure for educating handicapped children, which is the authorized amount for fiscal year 1978. Both the House and Senate reports accompanying the 1978 Labor-

HEW appropriations bills commit the Congress to providing the full 10 percent in 1978.

The State grant program is designed to help States meet the mandate of the Education for all Handicapped Children Act (Public Law 94–142) which requires the States to provide free, appropriate public education to all handicapped children, aged 3 to 21, by September 1, 1980. Federal funds are provided to all the States to help defray excess costs associated with education of handicapped children. The law defines excess costs as those costs which exceed the average annual per pupil expenditure in a local school district during the preceding school year. The maximum amount each State is entitled to receive each year is equal to the number of children, aged 3 to 21, receiving special education and related services multiplied by a specific percent of national average per pupil expenditure. The percentage authorized for school year 1978–79 is 10 percent.

STUDENT LOAN INSURANCE FUND

1978 appropriation to date	$295, 724, 000
President's supplemental request	223, 939, 000
House allowance	223, 939, 000
Committee recommendation	180, 000, 000

The Committee recommends $180,000,000 for the Student Loan Insurance Fund, a reduction of $43,939,000 below the supplemental request and the House allowance. When prior-year 1978 appropriations of $295,724,000 are added to the supplemental funds, the fiscal 1978 total becomes $475,724,000. The Student Loan Insurance Fund is used to pay interest subsidies, special allowances, and default claims under the guaranteed student loan program.

These costs are mandatory expenses which the Federal Government is required to pay. However, the Committee is aware that the Office of Education's accelerated loan collection program is beginning to produce results. The office now estimates that collections on loans will be near $15,000,000 instead of the $11,828,000 originally estimated. Also, the default rate has begun to decline in recent months. Therefore, the Committee believes that the data accompanying the original supplemental request, which is nearly 8 months old, should be revised and updated to reflect the most current information. The Committee directs the Office of Education to review the original estimates for the Student Loan Insurance Fund and to provide this data to the Committee at the earliest possible date.

The Senate decrease in no way affects the Department's payments of special allowances to lenders to provide an equitable yield and to assure stability of the program.

HIGHER EDUCATION LOAN AND INSURANCE FUND

1978 appropriation to date	$1, 847, 000
President's supplemental request	Bill language
House allowance	----------
Committee recommendation	----------

The Committee agrees with the House in deferring action on the request that unobligated balances in the revolving fund of the Higher Education Facilities Loan and Insurance Fund be made available for new loans to assist in making facilities accessible to the handicapped.

This request will be reconsidered when more detailed information has been provided to the Committee. The Committee will be outlining its specific information requests in the Senate report which will accompany H.R. 12929, the 1979 Labor-HEW appropriations bill.

SALARIES AND EXPENSES

1978 appropriation to date	$126, 607, 000
President's supplemental request	2, 300, 000
House allowance	2, 300, 000
Committee recommendation	2, 300, 000

For salaries and expenses, the Committee recommends $2,300,000, the same as the supplemental request and the House allowance.

The additional funds will cover increased postage costs that have resulted from the U.S. Postal Service's revision of its cost procedures. This revision has resulted in higher billings for fiscal years 1976, 1977 and 1978. The original 1978 postage cost estimate was $2,800,000, but the revised cost has increased to $5,100,000. While prior year increases have been absorbed by the Office of Education, it is not able to absorb the increased costs for 1978.

Special Institutions

The Committee has included language in the bill to enable the Special Institutions, Gallaudet College, Howard University, The National Technical Institute for the Deaf, and the American Printing House for the Blind, to make purchases from the General Services Administration. The Special Institutions receive a major portion of their funding through an appropriation administered by the Department of Health, Education, and Welfare.

Gallaudet College and Howard University have been making purchases through GSA for several years. However, the Committee has been informed that the present statutory language does not allow for a positive determination of their eligibility to make purchases through GSA.

Other appropriations bills contain similar provisions to allow certain governmental and quasi-governmental bodies to make purchases through the GSA. This provision will allow these institutions to make low-cost purchases and thus avoid the necessity to increase appropriations.

Assistant Secretary for Human Development Services

HUMAN DEVELOPMENT

1978 appropriation to date	$2, 195, 978, 000
President's supplemental request	
House allowance	600, 000
Committee recommendation	2, 400, 000

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The Committee recommends $2,400,000 to permit expansion of the Institute of Physical Medicine and Rehabilitation, located in Louisville, Ky. There was no budget request, and the House did not consider this project. This is the only facility within a several hundred mile radius which provides comprehensive care for victims of catastrophic illnesses, such as spinal cord injuries and stroke. Expansion of this vocational rehabilitation facility would alleviate the lengthy waiting list for services. Although the entire cost is $3,400,000, the local community has raised $1,000,000 toward expansion of the Institute.

The Committee recommends deleting the $600,000 House allowance for the Vinland National Center, a sports training and health-care education facility planned in Minnesota for people with disabilities, for which there was no budget request. The House allowance is for construction planning costs, primarily architectural engineering fees; subsequent construction costs are estimated at nearly $10,000,000.

The proposed funding for the Vinland Center planning costs does not include any local contributions. The Committee believes it is essential that projects of this kind have a significant level of funding support from the community. At the same time, there appears to be no urgency justifying inclusion in this supplemental of earmarked appropriations for the Vinland National Center. The Committee believes it is more important to build on the proven success of existing projects, such as the Institute, than it is to start new projects, such as the Vinland Center.

OFFICE FOR CIVIL RIGHTS

1978 appropriation to date	$33, 821, 000
President's supplemental request	20, 146, 000
House allowance	7, 700, 000
Committee recommendation	6, 900, 000

The Committee has provided $6,900,000 and 350 positions to clear up the backlog of uninvestigated civil rights complaints in HEW. The President had requested 898 positions and $20,146,000 for the Office for Civil Rights in this fiscal year 1978 Supplemental. The House and Senate will likely agree to include 449 positions, half of the request, in the fiscal year 1979 regular Appropriations bill. The House provided 449 positions in this supplemental and $7,700,000, thereby providing the entire number of positions requested over the 2-year period.The House reduction of $12,446,000 principally reflected both a more realistic hiring schedule in 1978 and the decision to provide half of the request in the fiscal year 1979 bill.

The Committee has reduced the number of positions by 99 and the dollar allowance by $800,000. This net allowance of 350 positions, when combined with the anticipated FY 1979 level of 449 positions, will equal the total number of 799 people that HEW estimates are required to conform to the Court mandate in Adams v. Califano. This mandate required the Office for Civil Rights to eliminate the complaint backlog and investigate all new complaints promptly.

Included within the Committee allowance is $5.8 million for resource materials and demonstration projects to facilitate compliance

with section 504, which prohibits discrimination against the handicapped. The 72 positions associated with this activity have been eliminated. Also eliminated were the 14 positions requested for civil rights activities in other HEW agencies and the 13 positions wanted for personnel support services.

OFFICE OF THE INSPECTOR GENERAL

1978 appropriation to date	$29, 633, 000
President's supplemental request	2, 328, 000
House allowance	1, 500, 000
Committee recommendation	1, 500, 000

The Committee has agreed with the House allowance of $1,500,000 and 100 positions to expand the activities of the Inspector General of HEW. This is $828,000 less than the President requested. The reduction reflects the fact that the supplemental will be passed later in the year than anticipated when the administration made its request.

These positions will go into the Office of Investigations. They will be used to identify potential instances of fraud and abuse through computer searches of Federal and State records.

GENERAL DEPARTMENTAL MANAGEMENT

1978 appropriation to date	$91, 456, 000
President's supplemental request	1, 047, 000
House allowance	359, 000
Committee recommendation	

The Committee has not included funds for the 30 positions requested for the General Counsel's increased litigation workload. Funds were also denied for the cost of setting up a new accounting system for the Office of the Secretary and the Office of Human Development. The Committee wishes to make it clear, however, that it has no objection to the use of currently available resources for this purpose.

The House had allowed $359,000 and the 30 positions. The House reduction had reflected a more realistic hiring schedule than envisioned in the administration's request.

RELATED AGENCIES

ACTION

1978 appropriation to date	$117, 260, 000
President's supplemental request	1, 400, 000
House allowance	217, 000
Committee recommendation	217, 000

The Committee recommends $217,000, the same as the House allowance and a reduction of $1,183,000 from the budget request.

The additional $217,000 will permit the ACTION Agency to raise the monthly stipend for Volunteers in Service to America (VISTA) from $50 to $75 per month, as requested. The request was reduced by $456,000, reflecting expected enactment of this supplemental late in the fiscal year.

The Committee concurs with the House in not approving the $727,000 request to cover the increased VISTA food and lodging allowance. The ACTION Agency began providing VISTA volunteers a food and lodging allowance increase in November 1977, without notifying Congress. The President's budget request for the food and lodging increase was not transmitted to Congress until January 1978. The Committee directs the ACTION Agency to maintain VISTA allowances at current levels and to absorb the increased cost by making economies in those parts of the budget that do not affect volunteer allowances. In this regard, the Committee has approved only that portion of the $676,000 May 25, 1978 reprograming request needed to meet increased costs for building rentals; the balance of these funds could be applied to the additional VISTA program financial requirements. The Committee will entertain a subsequent reprograming request, should it be necessary.

Corporation for Public Broadcasting

1978 appropriation to date	$107, 150, 000
President's supplemental request	12, 050, 000
House allowance	12, 050, 000
Committee recommendation	12, 050, 000

The Committee agrees with the House allowance and supplemental request of $12,050,000 for the Corporation for Public Broadcasting. The additional funds will bring the 1978 appropriation for the Corporation to $119,200,000, an increase of $16,200,000 above the 1977 appropriation.

The additional funds will provide for an additional $7,000,000 for grants to local public radio and television stations, $3,525,000 for television and radio program production and $1,525,000 for the new satellite interconnection system.

The authorizing legislation establishes a matching formula of $1 in Federal funds for each $2.50 in non-Federal funds collected by public broadcasting. The supplemental funds will bring the Corporation'-Federal funds up to this match. While the formula is not an entitles ment, the Committee believes that these funds will be put to good use by increasing program development and continuing the development and expansion of the satellite interconnection system which will enable both public radio and television to benefit from improved broadcast signals and increased program options. This system began its initial use earlier this year and will be fully operational by 1980.

Federal Mine Safety and Health Review Commission

1978 appropriation to date	$903, 000
President's supplemental request	1, 036, 000
House allowance	193, 000
Committee recommendation	193, 000

The Committee concurs with the House in recommending $193,000, compared to the $1,036,000 budget request for the Review Commis-

sion. Due to the lateness in the fiscal year, this amount is sufficient to finance the revised staffing level of 81 permanent positions. With the 38 new positions provided, the Commission should be able to promptly adjudicate contested enforcement actions of the Labor Department. Established by the Mine Safety and Health Amendments Act of 1977, the Commission holds factfinding hearings and issues its decisions upholding, altering, or overturning the Secretary of Labor's enforcement actions.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

Requested in H. Doc. 96-281 as amended by [1]	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER V					
	DEPARTMENT OF LABOR					
	EMPLOYMENT AND TRAINING ADMINISTRATION					
	Employment and training assistance	$76,540,000			−$76,540,000	
	Community service employment for older Americans	30,000,000	$21,300,000	$21,300,000	−8,700,000	
	Total, Employment and Training Administration	106,540,000	21,300,000	21,300,000	−85,240,000	
	LABOR-MANAGEMENT SERVICES ADMINISTRATION					
	Salaries and expenses	956,000			−956,000	
	EMPLOYMENT STANDARDS ADMINISTRATION					
	Salaries and expenses	940,000	165,000	165,000	−775,000	
	MINE SAFETY AND HEALTH ADMINISTRATION					
	Salaries and expenses	9,433,000	8,000,000	8,000,000	−1,433,000	
	BUREAU OF LABOR STATISTICS					
	Salaries and expenses	536,000			−536,000	
	DEPARTMENTAL MANAGEMENT					
95-311	Salaries and expenses	2,738,000	2,323,000	1,900,000	−838,000	−423,000
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE					
	CENTER FOR DISEASE CONTROL					
95-311	Preventive health services	15,000,000			−15,000,000	
	NATIONAL INSTITUTES OF HEALTH					
	National Institute of Alergy and Infection		3,000,000	3,000,000	+3,000,000	
	ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION					

Construction and renovation, St. Elizabeths Hospital	55, 300, 000	52, 200, 000		−55, 300, 000	−52, 200, 000
HEALTH RESOURCES ADMINISTRATION					
Health resources		628, 000			−628, 000
HEALTH CARE FINANCING ADMINISTRATION					
Quality care management, research and administration	1, 063, 000	400, 000		−1, 063, 000	−400, 000
Limitation on administrative expenses (increase in limitation)	(36, 797, 000)	(18, 797, 000)		(−36, 797, 000)	(−18, 797, 000)
EDUCATION DIVISION					
OFFICE OF EDUCATION					
School assistance in federally affected areas	31, 000, 000	5, 000, 000	5, 000, 000	−26, 000, 000	
Education for the handicapped		37, 800, 000	37, 800, 000	+37, 800, 000	
Salaries and expenses	2, 300, 000	2, 300, 000	2, 300, 000		
Student loan insurance fund	223, 939, 000	223, 939, 000	180, 000, 000	−43, 939, 000	−43, 939, 000
Total, Office of Education	257, 239, 000	269, 039, 000	225, 100, 000	−32, 139, 000	−43, 939, 000
Total, Education Division	257, 239, 000	269, 039, 000	225, 100, 000	−32, 139, 000	−43, 939, 000
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES					
Human development		600, 000			−600, 000
Rehabilitation services, special projects			2, 400, 000	+2, 400, 000	+2, 400, 000
DEPARTMENTAL MANAGEMENT					
Office for Civil Rights	20, 146, 000	7, 700, 000	6, 900, 000	−13, 246, 000	−800, 000
Office of the Inspector General	2, 328, 000	1, 500, 000	1, 500, 000	−828, 000	
General departmental management	1, 047, 000	359, 000		−1, 047, 000	−359, 000
otal, Departmental Management	23, 521, 000	9, 559, 000	8, 400, 000	−15, 121, 000	−1, 159, 000
RELATED AGENCIES					
ACTION	1, 400, 000	217, 000	217, 000	−1, 183, 000	
Corporation for Public Broadcasting	12, 050, 000	12, 050, 000	12, 050, 000		
Federal Mine Safety and Health Review Commission	1, 036, 000	193, 000	193, 000	−843, 000	
Total, related agencies	14, 486, 000	12, 460, 000	12, 460, 000	−2, 026, 000	
Total, chapter V:					
New budget (obligational) authority	487, 752, 000	379, 674, 000	282, 725, 000	−205, 027, 000	−96, 940, 000
(Increase in limitations)	(36, 797, 000)	(18, 797, 000)		(−36, 797, 000)	(−18, 797, 000)

[1] Documents are H. Doc. unless otherwise noted.

CHAPTER VI

LEGISLATIVE BRANCH

SENATE

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

1978 appropriations to date	$180,000
1978 supplemental estimate	57,500
House allowance	
Committee recommendation	57,500

The Committee recommends an amendment providing, in accordance with longstanding custom, a gratuity equivalent to one year's salary to the widow of the late Senator James B. Allen. This practice of paying death gratuities has been customary in the Senate for approximately 120 years and is identical to the practice followed in the House of Representatives.

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT, PRESIDENT PRO TEMPORE, THE LEADERS, AND WHIPS OF THE SENATE

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS AND MAJORITY AND MINORITY WHIPS

1978 appropriations to date	$25,000
1978 supplemental estimate	30,000
House allowance	
Committee recommendation	30,000

The Committee recommends an appropriation of $30,000 which is the same as the budget estimate. The additional funds would be used to provide for the increased expenses of the operation of the Office of the Majority Leader, and the Minority Leader and establish an expense allowance for the Office of the President Pro Tempore. The Committee recommendation provides that the amount of each allowance would be $10,000 annually. The following proviso has been included in the bill to increase the existing allowances from $5,000 to $10,000 annually and establish an expense allowance for the Office of the President Pro Tempore.

> Effective fiscal year 1978 and each fiscal year thereafter, the expense allowances of the Majority and Minority Leaders of the Senate are increased to $10,000 each fiscal year for each leader. Effective with fiscal year 1978 and each fiscal year thereafter, there is hereby authorized an expense allowance for the President Pro Tempore which shall not exceed $10,000 each fiscal year. The President Pro Tempore may receive the expense allowance (1) as reimbursement for actual expenses

incurred upon certification and documentation of such expenses by the President Pro Tempore, or (2) in equal monthly payments. Such amounts paid to the President Pro Tempore as reimbursement of actual expenses incurred upon certification and documentation pursuant to this provision, shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction, under the Internal Revenue Code of 1954.

The Committee has included sufficient funds in the bill to finance the increase in allowances through fiscal year 1979, thus precluding the necessity for a fiscal year 1979 supplemental appropriation.

Salaries, Officers and Employees

OFFICES OF THE MAJORITY AND MINORITY LEADERS

1978 appropriations to date	$383,400
1978 supplemental estimate	110,000
House allowance	-------
Committee recommendation	110,000

The Committee recommends the budget request of $110,000 for one additional senior staff position or appropriate positions for the Majority Leader and Minority Leader. The Committee has included sufficient funds in the bill to finance the new positions through fiscal year 1979, thus precluding the necessity for a fiscal year 1979 supplemental appropriation.

Contingent Expenses of the Senate

POSTAGE STAMPS

1978 appropriations to date	$25,200
1978 supplemental estimate	2,000
House allowance	-------
Committee recommendation	2,000

The Committee recommends $2,000 for postage stamps, the same as the budget request. The amount is required to cover a recent increase in the cost of special delivery stamps which are used to assure timely delivery of composite payroll checks to local and out-of-town banks. The Committee has included sufficient funds in the bill to cover the costs through fiscal year 1979, thus precluding the necessity for a fiscal year 1979 supplemental appropriation.

Administrative Provisions

The Committee has included a number of administrative provisions of a technical or housekeeping nature. As is customary, the administrative provisions are printed in the report together with a short explanatory statement.

TRAVEL EXPENSES

Sec. 101. Effective with the fiscal year ending September 30, 1978, the first sentence of section 101 of the Legislative Branch Appropriation Act, 1976 (2 U.S.C. 61a–9a), as amended, is amended by striking out "$5,500" and inserting in lieu thereof "$7,500".

This administrative provision authorizes an increase in the maximum amount that may be incurred by the Office of the Secretary of the Senate for travel expenses during each fiscal year.

MERGING OF APPROPRIATIONS

SEC. 102. Any funds made available for the purposes specified in section 109 of the Supplemental Appropriations Act, 1977, shall be transferred to and merged with the funds appropriated for such purposes for the fiscal year ending September 30, 1978.

The purpose of this provision is technical in nature and will merge the available balances of fiscal year 1977 with fiscal year 1978, thereby eliminating another layer of ledger accounts in the Senate Financial Clerk's office and at the Treasury Department. This action will greatly simplify the administration of the carry-over of the 1977 funds into 1978, previously authorized by section 109 of the Supplemental Appropriations Act, 1977.

PER DIEM RATES

SEC. 103. The seventh paragraph under the heading "Administrative Provisions" in the Senate appropriation in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b), as amended, is amended by striking out "$35 per day;" and inserting in lieu thereof "the rates in effect under section 5702 of title 5, United States Code, for employees of agencies;", and by striking out "$50 per day" and inserting in lieu thereof "the daily rate in effect under section 5702 of title 5, United States Code, for employees of agencies".

This provision amends section 68b of title 2 of the United States Code to provide authority to the Committee on Rules and Administration to fix the daily rate of per diem in lieu of subsistence for employees of committees and other Senate offices at the same maximum levels as provided for employees of the Executive Branch of the Government. This provision does not apply with respect to per diem or actual travel expenses incurred by Senators and employees in the office of a Senator which are reimbursed under authority of section 112 of the Legislative Branch Appropriation Act, 1978 which already provides for the reimbursement of travel expenses at the same maximum levels as provided for employees in the Executive Branch.

LUMP SUM ALLOWANCE FOR STATIONERY ROOM

SEC. 104. (a) Effective November 1, 1978, in lieu of the seventeen statutory positions designated for the Stationery Room, the Secretary of the Senate may establish such number of positions in the Stationery Room (but not less than fifteen), as he determines necessary for the proper and efficient discharge of its functions, and to designate the titles and fix the compensation of such positions: *Provided*, That, upon implementation of the authority contained in this subsection, the Secretary of the Senate shall transfer to the positions so established those individuals employed in the Stationery Room on October 31, 1978, and may appoint

individuals to any remaining positions so established or to any position which is established after November 1, 1978, or becomes vacant after that date.

(b) (1) The aggregate annual gross compensation (other than longevity and merit compensation) paid to employees appointed to the positions established under subsection (a) shall not exceed for any fiscal year $287,474 (A) increased by the percentage specified for positions under the jurisdiction of the Secretary of the Senate in the last Order of the President Pro Tempore of the Senate issued before November 1, 1978, under authority of section 4 of the Federal Pay Comparability Act of 1970, and adjusted to the next higher multiple specified in such Order, and (B) increased and adjusted as provided in Orders of the President Pro Tempore of the Senate issued after November 1, 1978, under authority of such section.

(2) The aggregate of payments of gross compensation (other than longevity and merit compensation) paid to employees appointed to positions established under subsection (a) shall not exceed at any time during each fiscal year one-twelfth of the amount specified in paragraph (1) multiplied by the number of months (counting a fraction of a month as a month) which have elapsed during that fiscal year.

(c) Nothing in this section shall be construed as abolishing the seventeen statutory positions designated for the Stationery Room, but in no event shall such positions be available during a period in which the Secretary is utilizing his authority under subsection (a) of this section.

This provision would authorize the Secretary of the Senate to utilize previously appropriated funds provided for salaries in the Stationery Room in the same manner as though it were a lump sum authorization. The Committee is agreeable to providing this authority to the Secretary as a pilot project within his jurisdiction to test the advisability of permitting the Secretary to operate his functions on the basis of a lump sum authorization and to determine if such an approach would promote increased economy and efficiency. It should be noted that the Committee is not recommending the abolition of the current seventeen statutory positions in the Stationery Room but is providing an option for the Secretary to test this pilot project. The Committee does not in any way intend that this authorization be considered a dual authorization. The Secretary must use either the statutory positions or the lump sum allowance and may not use both simultaneously. After experience has been gained under this authority, the Committee will take under consideration what further steps, if any, should be taken with regard to the use of lump sum allowances. Additionally, this provision does not affect or impair the authority of the Secretary to appoint or terminate employees, at any time, in the normal course of business. The Committee will expect the Secretary to continue to carry the seventeen statutory positions in his budget presentations to provide a baseline for comparison purposes.

SENATOR-ELECT ALLOWANCES

Sec. 105. (a) Upon the recommendation of a Senator-elect (other than an incumbent Senator or a Senator elected to fill a vacancy), the Secretary of the Senate shall appoint two employees to assist such Senator-elect. Any employee so appointed shall serve through the day before the date on which the Senator-elect recommending his appointment commences his service as a Senator, except that his employment may be terminated before such day upon recommendation of such Senator-elect.

(b)(1) Salaries of employees appointed under subsection (a) shall be paid from the appropriation for "Administrative, Clerical, and Legislative Assistance to Senators".

(2) Salaries paid to employees appointed upon recommendation of a Senator-elect under subsection (a) shall be charged against the amount of compensation which may be paid to employees in his office under section 105(d) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61–1(d)) (hereinafter referred to as the "clerk-hire allowance"), for the fiscal year in which his service as a Senator commences. The total amount of salaries paid to employees so appointed upon recommendation of a Senator-elect shall be charged against his clerk-hire allowance for each month in such fiscal year beginning with the month in which his service as a Senator commences (until the total amount has been charged) by whichever of the following amounts is greater: (1) one-ninth of the amount of salaries so paid, or (2) the amount by which the aggregate amount of his clerk-hire allowance which may be paid as of the close of such month under section 105(d)(1)(B) of such Act exceeds the aggregate amount of his clerk-hire allowance actually paid as of the close of such month.

(c) Each Senator-elect and each employee appointed under subsection (a) is authorized one round trip from the home State of the Senator-elect to Washington, D.C., and return, for the purposes of attending conferences, caucuses, or organizational meetings, or for any other official business connected with the impending Congress. In addition, each Senator-elect and each such employee is authorized per diem for not more than seven days while enroute to and from Washington, D.C., and while in Washington, D.C. Such transportation and per diem expenses shall be in the same amounts as are payable to Senators and employees in the office of a Senator under section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), and shall be paid from the contingent fund of the Senate upon itemized vouchers certified by the Senator-elect concerned and approved by the Secretary of the Senate.

(d)(1) Each Senator-elect is authorized to be reimbursed for expenses incurred for telegrams and telephone services related to his position as a Senator-elect in an amount not exceeding one-twelfth of the total amount of expenses authorized to be paid to or on behalf of a Senator from the

State which he will represent under section 506 of the Supplemental Appropriations Act, 1973. Reimbursement to a Senator-elect under this subsection shall be paid from the contingent fund of the Senate upon itemized vouchers certified by such Senator-elect and approved by the Secretary of the Senate.

(2) Amounts reimbursed to a Senator-elect under this subsection shall be charged against the amount of expenses which are authorized to be paid to him or on his behalf under section 506 of the Supplemental Appropriations Act, 1973, for each of the twelve months beginning with the month in which his service as a Senator commences (until all of such amounts have been charged) by whichever of the following amounts is greater: (1) one-twelfth of the amounts so reimbursed or (2) the amount by which the aggregate amount authorized to be so paid under section 506(c) of such Act as of the close of such month exceeds the aggregate amount actually paid under such section 506 as of the close of such month.

(e) This section shall take effect on October 1, 1978.

The purpose of this provision is to authorize a Senator-elect, to recommend, for appointment by the Secretary of the Senate, two employees to assist him in his preliminary functions in dealing with future constituents and attending caucuses, conferences, and organizational meetings in preparation for his forthcoming duties. A Certificate of Election must have been filed with the President of the Senate prior to any payment under this provision. Salary disbursements would ultimately be charged against his clerk-hire allowance when his term as a Senator commences. The salary rates of the employees appointed under this provision would not exceed those authorized for an incumbent Senator's office staff, and, in accordance with current law, such appointments could not become effective until properly signed and received in the Disbursing Office of the Senate.

Also, the Senator-elect and the two staff members would each be authorized to travel to Washington, D.C., and return, with a per diem allowance for the period of the trip, but not to exceed 7 days, to be a part of the organizational meeting process.

The provision would also authorize reimbursement for telephone and telegraph expenses during this period. These expenses would be charged against the first year's allowance for the Official Office Expense Account when the Senator-elect's term of office commenced, in effect allowing the expenses but charging them against the new Senator's allowance.

OFFICE OF TECHNOLOGY ASSESSMENT

Salaries and Expenses

1978 appropriations to date	$7,400,000
1978 supplemental estimate	2,000,000
House allowance	
Committee recommendation	1,000,000

The Committee has included $1,000,000, a decrease of $1,000,000 below the budget request, for a comprehensive evaluation of energy policy alternatives, to remain available until expended.

This study, which will examine a set of possible energy futures covering a wide range of supply and demand technologies, has three major objectives. These are:

1. To determine the effects of the possible energy futures on society, the economy and the environment,
2. to analyze their implications in the long run transition to inexhaustible energy sources, and
3. to identify and analyze the policy alternatives for achieving each of these futures.

The Committee has also included a provision in the bill authorizing ten additional staff positions which shall be available only for the life of this project which reads as follows:

> Ten staff employees to be available for the life of the project, notwithstanding any limitation currently or hereafter imposed by law.

ARCHITECT OF THE CAPITOL

Office of the Architect of the Capitol

CONTINGENT EXPENSES

1978 appropriations to date	$120,000
1978 supplemental estimate	90,000
House allowance	90,000
Committee recommendation	90,000

The Committee recommends an appropriation of $90,000, the same amount as the budget request and the House allowance. The sum is required to enable the Architect to make surveys and studies and to meet unforeseen expenses in connection with those activities under his jurisdiction. Supplemental funds have been provided for this account the past two years, and the regular fiscal year 1978 appropriation has been substantially allocated. Therefore, the past and current circumstances indicate a need for this supplemental.

Capitol Buildings and Grounds

CAPITOL BUILDINGS

1978 appropriations to date	$5,516,000
1978 supplemental estimate	655,000
House allowance	595,000
Committee recommendation	655,000

The Committee recommends an appropriation of $655,000, which is $60,000 above the House allowance. The latter amount was developed too late for consideration in the Supplemental Appropriations bill in the House. The total recommendation will provide funds for the four following items: Senate data communications cable system ($75,000), which represents a portion of a larger system, the remainder being funded under the "Senate Office Buildings" account, to replace dial-up data phone lines with private wire cabling between terminals to be located in the Capitol, Senate Office Buildings, and Senate Computer Center; replenishment of Capitol complex security system and miscellaneous improvements funds ($500,000), which were reprogrammed to

finance the House closed circuit televising system; monies ($20,000) to provide the cost of a nurse position to staff the first aid facility in space leased by the Office of Technology Assessment; and lastly alteration work at several locations on the Senate side of the Capitol ($60,000).

CAPITOL GROUNDS

1978 appropriations to date	$1, 919, 500
1978 supplemental estimate	415, 000
House allowance	415, 000
Committee recommendation	415, 000

The Committee recommends an appropriation of $415,000, the same amount as the budget request and the House allowance. Two items are to be funded with this amount: overtime costs incurred to combat snow and icy conditions, $40,000; and converting Old Providence Hospital site to a green park area, $375,000. Unusually severe winter conditions caused excess use of manpower over average winters requiring overtime payments. The Hospital site (Square 764 located between D and E, 2nd and 3rd Streets, Southeast) was made a part of the Capitol Grounds by Public Law 92–607, the Supplemental Appropriations Act of 1973. Specified, in that act, was authorization for the Architect to use such property as a green park area. The recommended funding would allow the site to be leveled (it is currently four to six feet above sidewalk grade and somewhat of an eyesore), landscaped and maintained so as to comply with the Act.

MASTER PLAN FOR FUTURE DEVELOPMENT OF THE CAPITOL GROUNDS AND RELATED AREAS

1978 appropriations to date	----------
1978 supplemental estimate	$100, 000
House allowance	100, 000
Committee recommendation	100, 000

The Committee recommends an appropriation of $100,000, the same amount as the budget request and the House allowance. This project was initially authorized and funded in the Legislative Branch Appropriations Act, 1976, Public Law 94–59 and the funds provided here will finance completion of the Plan (Phase III).

SENATE OFFICE BUILDINGS

1978 appropriations to date	$9, 102, 000
1978 supplemental estimate	1, 110, 000
House allowance	----------
Committee recommendation	1, 110, 000

The Committee recommends the budget request of $1,110,000 which would provide, in part, the installation of a Senate Data Communications Cable System, $682,000; waterproofing repairs to the Russell Senate Office Building, Northwest upper terrace passageway and tunnel, $178,000; and repairs to roofs, balustrades, and parapet walls of Russell and Dirksen Senate Office Buildings, $250,000. The funds for the Senate cable system are part of a larger project that will replace dial-up data phone lines with private wire cabling between terminals in the Capitol and Senate office buildings and the Senate Computer Center.

CAPITOL POWER PLANT

1978 appropriations to date	$12, 317, 000
1978 supplemental estimate	600, 000
House allowance	600, 000
Committee recommendation	600, 000

The Committee recommends an appropriation of $600,000, the same amount as the budget request and the House allowance, to cover the projected cost of the purchase of electrical energy from the Potomac Electric Power Company.

CONSTRUCTION OF EXTENSION TO THE NEW SENATE OFFICE BUILDING

1978 appropriations to date	----------
1978 supplemental estimate	$37, 500, 000
House allowance	----------
Committee recommendation	----------

The Committee has not approved the request for an additional $37,500,000 for the construction of an extension to the new Senate Office Building. There is currently an unobligated balance of over $32,000,000 of funds previously appropriated for this project. On February 28, 1978, the Senate Office Building Commission requested the General Accounting Office to review the costs of the Hart Building. In the absence of time to fully consider the GAO report, the Committee has deferred consideration of any such request in new budget authority for the project and is of the opinion that the Senate Office Building Commission should instruct the Architect of the Capitol to use the $32,000,000 unobligated balance currently available to commence phase V of the project.

LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING

1978 appropriations to date	----------
1978 supplemental estimate	$10, 000, 000
House allowance	----------
Committee recommendation	7, 675, 000

The Committee recommends an additional appropriation of $7,675,000 to complete construction of the Library of Congress James Madison Memorial Building. This project was authorized by Public Law 89–260, approved October 19, 1965, at a limit of cost of $75,000,000. The limit of cost was increased to $90,000,000 by Public Law 91–214, approved March 16, 1970, and to $123,000,000 by Public Law 94–219, approved February 27, 1976. The full $123,000,000 authorized has been appropriated.

To complete the project, the Architect of the Capitol estimates that an additional $10,000,000 is required for the final stage of construction work and other requirements. The Senate on June 13, 1978, passed S. 3112, a bill to amend the Act of October 19, 1965, to provide $10,000,000, additional authorization for the Library of Congress James Madison Memorial Building. The House Committee on Public

Works and Transportation on May 15, 1978, reported bill H.R. 12342 to the House of Representatives providing an additional authorization of $7,675,000 for the Library of Congress James Madison Memorial Building.

The Committee is aware of possible advancement of the date for completion and occupancy of the new James Madison Memorial Building by the Library of Congress. Funds are not contained in this bill or in the regular 1979 appropriation bill to finance 1979 occupancy. The Committee would be willing to consider a 1979 temporary reprogramming and supplemental appropriation for this purpose if it is determined to be in the best interest of the Government to do so.

LIBRARY OF CONGRESS

Congressional Research Service

SALARIES AND EXPENSES

1978 appropriations to date	$21,795,000
1978 supplemental estimate	210,000
House allowance	
Committee recommendation	100,000

The Committee has observed that the capability and expertise of the Congressional Research Service to deal effectively with the many issues and demands arising from Congress' responsibilities for oversight and legislation regarding ocean related affairs has, unfortunately, diminished recently. CRS' capabilities in this area are presently in need of strengthening, particularly in regard to fisheries, marine resource policy, coastal zone management, and other basic elements of ocean policy. The Committee intends to remedy this deficiency by insuring that personnel are available and assigned to those subject areas, and, in order to accomplish this objective, it has therefore included five positions and $100,000 to increase CRS' capabilities in these areas.

Copyright Office

SALARIES AND EXPENSES

The Committee recommends that language be included in the bill which is required to allow the Copyright Office to utilize an additional $500,000 in copyright fee receipts. The funds would be used to cover the increased costs of processing a higher than estimated workload of claims for registration of copyrights. The proposed language in the bill would increase the limitation on the use of copyright fee receipts in fiscal year 1978 from $3 million to $3.5 million, thus precluding the need to appropriate any additional funds for this purpose in fiscal year 1978. The text of the language is as follows:

> The proviso in the paragraph under this heading in the Legislative Branch Appropriations Act, 1978 (Public Law 95-94), is amended by striking out "$3,000,000" and inserting in lieu thereof "$3,500,000".

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

H. Doc. except as noted	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER VI					
	CONGRESSIONAL OPERATIONS					
	SENATE					
S. Doc. 95-117	Payments to widows and heirs of deceased members of Congress	$57,500		$57,500		+$57,500
	Expense allowances of the Vice President, President pro tempore, majority and minority leaders, and majority and minority whips:					
	President pro tempore	10,000		10,000		+10,000
	Majority leader	10,000		10,000		+10,000
	Minority leader	10,000		10,000		+10,000
	SALARIES, OFFICERS AND EMPLOYEES					
	Offices of the majority and minority leaders	110,000		110,000		+110,000
	CONTINGENT EXPENSES OF THE SENATE					
	Postage stamps	2,000		2,000		+2,000
	Total, Senate	199,500		199,500		+199,500
	HOUSE OF REPRESENTATIVES					
	CONTINGENT EXPENSES OF THE HOUSE					
	PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS					
	Gratuities, deceased Members		$115,000	115,000	+$115,000	

	ALLOWANCES AND EXPENSES					
S. Doc. 95-331	Equipment (purchase, lease, and maintenance)	584,250	584,250	584,250		
	SPECIAL AND SELECT COMMITTEES					
	Salaries and expenses	5,500,000	5,500,000	5,500,000		
	Total, House of Representatives	6,084,250	6,199,250	6,199,250	+115,000	
	JOINT ITEMS					
	CONTINGENT EXPENSES OF THE HOUSE					
	JOINT COMMITTEE ON TAXATION					
S. Doc. 95-106	Salaries and expenses	252,800	252,800	252,800		
	OFFICE OF TECHNOLOGY ASSESSMENT					
S. Doc. 95-106	Salaries and expenses	2,000,000		1,000,000	−1,000,000	+1,000,000
	ARCHITECT OF THE CAPITOL					
	OFFICE OF THE ARCHITECT OF THE CAPITOL					
	Contingent expenses	90,000	90,000	90,000		
	CAPITOL BUILDINGS AND GROUNDS					
S. Doc. 95-106	Capitol buildings	655,000	595,000	655,000		+60,000
S. Doc. 95-110	Capitol Grounds	415,000	415,000	415,000		
S. Doc. 95-110	Master plan for future development of the Capitol Grounds and related areas	100,000	100,000	100,000		
S. Doc. 95-106	Senate office buildings	1,110,000		1,110,000		+1,110,000
S. Doc. 95-106	House office buildings	811,000	811,000	811,000		
S. Doc. 95-106	Capitol Power Plant (operation)	600,000	600,000	600,000		
	Total, Capitol Buildings and Grounds	3,691,000	2,521,000	3,691,000		+1,170,000
S. Doc. 95-110	Construction of an extension to the new Senate office building	37,500,000			−37,500,000	
S. Doc. 95-117	Library of Congress, James Madison Memorial Building	10,000,000		7,675,000	−2,325,000	+7,675,000
	Total, Architect of the Capitol	51,281,000	2,611,000	11,456,000	−39,825,000	+8,845,000
	LIBRARY OF CONGRESS					
	CONGRESSIONAL RESEARCH SERVICE					
	Salaries and expenses	210,000		100,000	−110,000	+100,000
	Total, chapter VI: New budget (obligational) authority	60,027,550	9,063,050	19,207,550	−40,820,000	+10,144,500

Military Construction

1978 appropriations to date	[1] $2, 279, 055, 000
1978 supplemental estimate	73, 540, 000
House allowance	
Committee recommendation	

[1] Includes only appropriations for which supplemental funds have been requested.

The Department of Defense requested a total of $81,493,000 in supplemental appropriations for military construction and family housing programs: $73,540,000 under title I, to partially offset the effects of dollar devaluation overseas, and $7,953,000 under title II to accommodate already-enacted civilian pay raises.

Although concerned over the potential program erosion which is resulting from foreign currency revaluation, the Committee has not recommended supplemental appropriations for fiscal year 1978. This is entirely due to lack of necessary authorizing legislation. The title II pay raise request has been deferred for the same reason.

This position is consistent with action taken by the House.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE I—GENERAL SUPPLEMENTALS

Department or activity	Budget estimates	House bill	Senate committee recommendations	Senate committee recommendation compared with (+ or −)	
				Budget estimates	House bill
MILITARY CONSTRUCTION					
Military construction, Army	$30,698,000			−$30,698,000	
Military construction, Air Force	11,459,000			−11,459,000	
Subtotal, military construction	42,157,000			−42,157,000	
FAMILY HOUSING					
Family housing, defense	31,383,000			−31,383,000	
Total, new budget (obligational) authority	73,540,000			−73,540,000	

CHAPTER VII

DEPARTMENT OF ENERGY

ENERGY

1978 appropriations to date	$34, 133, 000
1978 supplemental estimate	[1] (3, 305, 000)
House allowance	3, 000, 000
Committee recommendation	3, 000, 000

[1] By transfer.

The Committee agrees with the House allowance of $3,000,000 in new budget authority to accelerate the activities of the Federal Energy Regulatory Commission. This amount will allow FERC to hire up to 200 additional personnel during the current fiscal year. The Administration proposed a transfer of $3,305,000 from other energy related programs for this item.

This new Commission was established by Public Law 95–91, The Department of Energy Organization Act. It inherited tremendous backlogs from the Federal Power Commission and the backlogs in workload will continue to increase if additional personnel are not made available.

The Federal Energy Regulatory Commission is involved with the construction, operation, and maintenance of dams, water conduits, reservoirs, powerhouses, transmission lines, or other works for the development and improvement of navigation and for the development and utilization of power across, along, or in navigable waters; rates for electric energy; rates and charges for the transmission or sale of natural gas; and other related functions.

During this period of energy problems, a regulatory agency concerned with energy should have adequate funds to carry out its program. Private sector decision makers deserve timely consideration of cases so that individuals and businesses can plan and act in a rational and responsible manner in dealing with the growing energy supply problems facing our country. The Committee encourages the efforts of FERC to keep the public informed of its activities. However, the appropriation included in the bill does not provide for funding intervenor actions. The funds provided in the bill are solely for decreasing the backlog of work that has built up during the past several years. Efforts of the FERC to decrease its backlog in 1978 and to become current in its workload during 1979 will be watched closely. The Committee will expect a substantial reduction in the Commission's backlog of cases.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

1978 appropriations to date	$103, 646, 000
1978 supplemental estimate	
House allowance	100, 000
Committee recommendation	100, 000

The Committee concurs with the House allowance of $100,000 for General Investigations for the Kissimmee River and Taylor Creek-Nubbin Slough Basin project in Florida.

The amount provided by the House is needed to initiate immediate restudy of the Kissimmee River and Taylor Creek-Nubbin Slough Basin to arrest the continuing degradation of the water quality in the Kissimmee River and Lake Okeechobee. The Florida State Legislature has passed legislation expressing deep concern over the problems associated with the channnelization of the Kissimmee River and the subsequent entrophication of Lake Okeechobee, the receiving body of water for the Kissimmee River and the 200 square mile Taylor Creek and Nubbin Slough Basins which lie to the east. Delay in starting this effort could create serious evironmental hazards resulting from lack of water quality control in the Kissimmee River Basin. The future maintenance of the Central and Southern Florida Flood Control Region, recreation, navigation, and loss of fish and wildlife resources, are also serious problems to be addressed. The estimated cost of this restudy effort is projected to be $1,000,000 with a first year cost of $100,000.

Because of the severe impact due to flood problems in Meridian and adjoining areas in Mississippi, the Corps of Engineers is directed to make available $150,000 from within available funds to begin the planning of the Sowashee Creek project (Phase I, AE&D) which was authorized in 1976. Work is proceeding in the up-stream portion of the Sowashee Creek project for which the Soil Conservation Service is the responsible agency, and the Committee agrees that the Corps portion of the work should not be further delayed.

Because of the recent and continuing erosion and deterioration of the Bethel, Alaska, waterfront on the Kuskokwim River, the Committee recommends that the Corps of Engineers allocate an amount of $65,000 from within available funds to study bank stabilization and other problems as identified by the corps' preliminary review and assessment of the situation. The need to begin this study in the current fiscal year is necessary prior to the onset of winter weather. Otherwise, it would be another year before the preliminary study work could commence.

CONSTRUCTION, GENERAL

1978 appropriations to date	$1, 523, 820, 000
1978 supplemental estimate	
House allowance	2, 000, 000
Committee recommendation	2, 000, 000

The Committee recommendation is to concur with the House amount of $2,000,000 for the engineering, design and planning of the Montgomery to Gadsden Coosa River Channel, Alabama project as explained in the House Report.

The Committee has been advised that serious economic losses are occurring due to the damaging surge problem in Quivira Basin, Mission Bay, Calif. These conditions are caused by the failure of the project to function as originally authorized, and the Committee therefore directs the Chief of Engineers to provide an amount not to exceed $525,000 from within available funds for temporary measures to correct this problem.

GENERAL PROVISION

A general provision is included in the bill as requested by the President in the 1979 Budget to allow disbursement of monies collected during the 1976 transition quarter from the lease of lands at Corps of Engineers projects to States in accordance with the provisions of 33 U.S.C. 701c–3.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

1978 appropriations to date	$281, 423, 000
1978 supplemental estimate	5, 350, 000
House allowance	3, 600, 000
Committee recommendation	3, 600, 000

A supplemental amount of $3,600,000 is recommended for salaries and expenses of the Nuclear Regulatory Commission. This amount is the same as the House allowance and is a reduction of $1,750,000 from the supplemental budget estimate submitted by the President.

These funds will support the NRC effort to expedite the development of the safety and environmental criteria in support of the Department of Energy high-level waste program and for technical assistance to States. This supplemental will also provide for the Commissions on-site inspection program.

Due to the lapse of time before the supplemental funds become available, the additional $3,600,000 will be sufficient to initiate the proposed programs. These funds will expand NRC's waste management efforts, increase the number of inspections and provide for the assignment of a permanent inspector at 20 reactor sites. The amount includes $385,000 for increased travel costs.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

Requested in H. Doc. 95-281 as amended by [1]	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER VII					
	DEPARTMENT OF ENERGY					
	Energy		$3,000,000	$3,000,000	+$3,000,000	
	(By transfer)	($3,305,000)			(−3,305,000)	
	DEPARTMENT OF DEFENSE—CIVIL					
	DEPARTMENT OF THE ARMY					
	CORPS OF ENGINEERS—CIVIL					
	General investigations		100,000	100,000	+100,000	
	Construction, general		2,000,000	2,000,000	+2,000,000	
	Total, Department of Defense—Civil		2,100,000	2,100,000	+2,100,000	
	INDEPENDENT OFFICES					
	Nuclear Regulatory Commission: Salaries and Expenses	5,350,000	3,600,000	3,600,000	−1,750,000	
	Total, chapter VII:					
	New budget (obligational) authority	5,350,000	8,700,000	8,700,000	+3,350,000	
	(By transfer)	(3,305,000)			(−3,305,000)	

[1] Documents are H. Doc. unless otherwise noted.

CHAPTER VIII

DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

1978 appropriations to date	$603, 577, 000
1978 supplemental estimate	3, 250, 000
House allowance	1, 450, 000
Committee recommendation	1, 450, 000

The Committee recommends the appropriation of $1,450,000 for salaries and expenses necessary in the administration of foreign affairs. This amount, which is $1,800,000 less than the request, will enable the Department to expedite the processing of Mexican immigrant visa applications, which were delayed as a result of the improper allocation of quotas under the Western Hemisphere legislation. The amount recommended also includes funds for services required under prisoner exchange treaties, as well as funds to strengthen consular services overseas.

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

1978 appropriations to date	$103, 101, 000
1978 supplemental estimate	10, 000, 000
House allowance	10, 000, 000
Committee recommendation	10, 000, 000

The Committee recommends approval of the full amount requested, in order to acquire properties in a number of locations abroad. These funds are needed in order to provide adequate and suitable housing for Government employees overseas at reasonable rates. The cost of such housing will be partially offset by a substantial reduction in rental costs.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

1978 appropriations to date	$26, 599, 000
1978 supplemental estimate	11, 008, 000
House allowance	11, 008, 000
Committee recommendation	11, 008, 000

The Committee recommends the full amount requested, for payment to the Foreign Service Retirement and Disability Fund. This amount is required in order to finance the unfunded liabilities created by executive level salary increases effective in February 1977, salary increases effective in October 1977, and a special annuity for certain officers "selected-out" of the Foreign Service.

International Organizations and Conferences

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

1978 appropriations to date	$325, 579, 000
1978 supplemental estimate	64, 127, 000
House allowance	64, 127, 000
Committee recommendation	64, 127, 000

The Committee recommends the full amount of the request, for assessed contributions to international organizations. This amount will provide funds to meet arrearages and the current assessment for the United Nations Educational, Scientific and Cultural Organization, and to cover shortfalls in funds available for several other organizations. The amounts provided for contributions in the regular appropriation for fiscal year 1978 were based on estimates of the budgets of many organizations. In some cases those estimates were too low and additional funds are needed to pay the full amount of the assessments.

The amount included in the bill is to cover outstanding assessments as follows:

United Nations	$13, 025, 000
United Nations Educational, Scientific and Cultural Organization	37, 275, 000
International Civil Aviation Organization	1, 220, 000
World Health Organization	2, 630, 000
Food and Agriculture Organization	3, 866, 000
International Atomic Energy Agency	1, 040, 000
Organization of American States	3, 025, 000
North Atlantic Treaty Organization	2, 046, 000
Total	64, 127, 000

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

1978 appropriations to date	$27, 000, 000
1978 supplemental estimate	20, 400, 000
House allowance	20, 400, 000
Committee recommendation	20, 400, 000

The Committee recommends the requested $20,400,000 to provide the estimated U.S. share of expenses of the recently established United Nations Interim Force in Lebanon (UNIFIL) for a six month period.

The United Nations Security Council, on March 19, 1978, established a United Nations Interim Force in Lebanon (UNIFIL) to: (1) confirm the withdrawal of Israeli forces from Lebanese territory to the international border, and (2) supervise the cessation of hostilities, ensure the peaceful character of the area of operation,and take all measures deemed necessary to assure the effective restoration of Lebanese sovereignty. The Secretary General has made a preliminary estimate that a total of 6,000 troops are needed to provide sufficient strength to carry out the peacekeeping mission as determined by the Security Council. The full contingent of 6,000 troops and logistical support staff is expected to be stationed in the area for at least six months.

The United Nations has estimated a total cost of $68,000,000 for the six months period covering both startup and ongoing operations. The U.S. share of this total is expected to be approximately 30 percent of the total assessment or $20,400,000.

MISSIONS TO INTERNATIONAL ORGANIZATIONS

1978 appropriations to date	$10, 144, 000
1978 supplemental estimate	1, 117, 000
House allowance	900, 000
Committee recommendation	727, 000

The bill includes an additional appropriation of $727,000 for the operation of missions to international organizations. This amount, which is $390,000 less than the amount requested, will provide for construction of additional offices by utilizing corridor space now wasted at the U.S. Mission to the United Nations in New York, as well as funds to offset, in part, the effect on mission operations of the decline in the value of the dollar in foreign exchange.

The Committee has deleted the proviso inserted by the House that restricts the U.S. Ambassador to the United Nations or his staff from promoting, expressing, or disseminating their personal views. In the opinion of the Committee, this proviso is outrageous and unacceptable. Our country is founded on the freedom of expression and the President can take whatever action he deems necessary when an Ambassador expresses views differing with the President's policies. But it is the duty of the Congress to make certain that the freedom is not stultified in any way but that it persists. This proviso is better found in some Soviet document rather than in the laws of Congress.

INTERNATIONAL TRADE NEGOTIATIONS

1978 appropriations to date	$3, 800, 000
1978 supplemental estimate	412, 000
House allowance	412, 000
Committee recommendation	412, 000

The Committee recommends the additional appropriation of $412,000, the full amount requested, for international trade negotiations. This amount is necessary to offset increased costs of negotiations in Geneva resulting from depreciation of the American dollar against the Swiss franc.

INTERNATIONAL COMMISSIONS

INTERNATIONAL FISHERIES COMMISSIONS

1978 appropriations to date	$5, 745, 000
1978 supplemental estimate	519, 000
House allowance	500, 000
Committee recommendation	500, 000

The sum of $500,000 is recommended as an additional appropriation for international fisheries commissions. This amount is $19,000 less than the request. The $500,000 will fund the U.S. share of the tuna-porpoise research and conservation program to be conducted by the Inter-American Tropical Tuna Commission.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

1978 appropriations to date	$26, 067, 000
1978 supplemental estimate	368, 000
House allowance	368, 000
Committee recommendation	368, 000

The Committee recommends the $368,000 requested for general administration of the Department of Justice. This amount is to cover the cost of the executive level pay increase granted in February 1977 and the cost of printing in the Federal Register and the Code of Federal Regulations.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

1978 appropriations to date	$77, 520, 000
1978 supplemental estimate	724, 000
House allowance	400, 000
Committee recommendation	400, 000

The Committee recommends $400,000 to finance the executive level pay increase in the general legal divisions of the Department of Justice. This amount is a reduction of $324,000 from the amount requested, reflecting the ability of these divisions to absorb a larger portion of such cost than originally anticipated.

SALARIES AND EXPENSES, ANTITRUST DIVISION

1978 appropriations to date	$41, 008, 000
1978 supplemental estimate	864, 000
House allowance	628, 000
Committee recommendation	----------

The Committee recommends deletion of the supplemental appropriation of $628,000 for the Antitrust Division allowed by the House. This amount was to cover the cost of printing in the Federal Register and the Code of Federal Regulations. The Department has advised the Committee of the ability of the Division to absorb the entire amount requested.

SALARIES AND EXPENSES, U.S. ATTORNEYS AND MARSHALS

1978 appropriations to date	$179, 075, 000
1978 supplemental estimate	4, 495, 000
House allowance	1, 445, 000
Committee recommendation	4, 495, 000

The Committee recommends $4,495,000 including the $1,445,000 recommended by the House to cover an increase in standard level user charges (SLUC) payable to the General Services Administration, and $3,050,000 added by the Committee for payment of overtime settlements with Deputy U.S. Marshals.

At the request of the Department, the Committee added $3,050,000 to the bill to pay overtime compensation to Deputy Marshals that was earned between 1972 and 1978. This amount, together with other unobligated balances remaining in this appropriation, is needed to pay a $3.8 million settlement reached between the Department and plaintiffs which provided that Deputy Marshals should receive back-pay for all overtime duties at the "time and a half" rate provided by 5 U.S.C. 5545, rather than the lower administratively uncontrollable overtime rate provided by 5 U.S.C. 5545(c)(2). The Committee expects the Administration to formally transmit a supplemental appropriation request to the Congress for the $3,050,000 before the House and Senate conferees meet on this bill.

Immigration and Naturalization Service

SALARIES AND EXPENSES

1978 appropriations to date	$266, 450, 000
1978 supplemental estimate	3, 750, 000
House allowance	3, 750, 000
Committee recommendation	3, 750, 000

The Committee recommends an additional appropriation of $3,750,000 for salaries and expenses of the Immigration and Naturalization Service. This is the full amount proposed in the supplemental request. These funds are recommended in order (1) to cover an increase in standard level user charges (SLUC) imposed by the General Services Administration, and (2) to provide for the adjustment of status of Indochinese refugees recently paroled into the United States, as required under Public Law 95–145.

DEPARTMENT OF COMMERCE

Bureau of the Census

PERIODIC CENSUSES AND PROGRAMS

1978 appropriations to date	$78, 000, 000
1978 supplemental estimate	2, 530, 000
House allowance	2, 180, 000
Committee recommendation	2, 180, 000

The Committee recommends an additional $2,180,000 for this appropriation account for fiscal year 1978, which is a reduction of $350,000 from the budget estimate. These funds will provide for an area sample to correct inaccuracies in the 1978 Census of Agriculture which will be conducted by mail. The area sample, which is to be carried out by direct enumeration, will enable the Bureau to add to the published census reports those agricultural operators missed by the mail portion of the census.

The Committee has not approved the requested funding for the addition of Manhattan to the 1980 Decennial Census dress rehearsal program and recommends that this item be funded within the appropriation currently available for fiscal year 1978.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

1978 appropriations to date	$382, 500, 000
1978 supplemental estimate	117, 000, 000
House allowance	106, 000, 000
Committee recommendation	117, 000, 000

The Committee recommends an additional $117,000,000 for the economic development assistance programs, authorized by the Public Works and Economic Development Act of 1965, and title II of the Trade Act of 1974. While the House reduced the request for this item by $11,000,000 because of the lack of sufficient authorization for these funds under the title IX economic adjustment assistance program the Committee has restored these funds, as requested by the Department, to meet similar needs in Titles I and II.

As recommended by the Committee the supplemental appropriation will provide for new program initiatives focusing on targeted economic

development efforts and an expanded trade adjustment assistance program as follows:

—$8,000,000 for title I public works grants of which $5,000,000 is to be used for the public works incentive program (PWIP);
—$8,000,000 for title II business development loans;
—$5,650,000 for title III planning and technical assistance;
—$21,350,000 for title IX economic adjustment assistance to communities;
—$74,000,000 for trade adjustment assistance to firms under title II of the Trade Act of 1974.

ADMINISTRATION OF ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

1978 appropriations to date	$26, 825, 000
1978 supplemental estimate	250, 000
House allowance	40, 000
Committee recommendation	40, 000

The funds recommended by the Committee will provide for 12 additional positions to administer the expanded trade adjustment assistance program, for which additional funding is provided in this bill, and EDA's program of loan guarantee assistance to steel companies. The Committee did not allow funding for three of the positions requested. The reduction from the budget estimate also reflects a more realistic lapse rate for the new positions.

Industry and Trade Administration

OPERATIONS AND ADMINISTRATION

1978 appropriations to date	$65, 947, 000
1978 supplemental estimate	3, 360, 000
House allowance	2, 630, 000
Committee recommendation	2, 630, 000

The Committee recommends $2,630,000 in additional funding for the Industry and Trade Administration for fiscal year 1978. This amount represents a reduction of $730,000 from the budget request.

The amount recommended includes $2,160,000 to reimburse the Postal Service for deficiences in ITA's penalty mail payments. Of this amount, $1,565,000 is provided for such obligations incurred during the period 1974 through 1977.

The amount recommended by the Committee also includes $470,000 which will provide the initial funding necessary to carry out the Department's responsibilities under the Export Administration Amendments of 1977. That legislation contains provisions designed to improve the export licensing process and to strengthen the United States policy against compliance with foreign boycotts. This appropriation will permit ITA to purchase equipment and to fund service contracts and other one-time costs. The Committee has not included in the accompanying bill any of the funds requested for new positions for this program in view of the little time remaining in the fiscal year. The Committee has a recommendation in the fiscal year 1979 appropriations bill to fully provide for all the new positions requested for this program.

Minority Business Enterprise

The bill includes a provision which will permit the Minority Business Opportunity Councils to have staff support provided by Federal em-

ployees instead of contract personnel. The United States Civil Service Commission has ruled that use of contract employees by the MBOC's violates civil service regulations since such employees report to and are supervised by Federal employees, and that all such contract employees had to be removed by April 30, 1978. The language recommended in the bill will permit the conversion of 24 contract positions within appropriations currently available for fiscal year 1978. The request for authority to hire 56 additional employees for the MBOC's was not allowed. However, funds are available in the appropriations bill for fiscal year 1979, which would permit the funding of these new positions thus providing a total staff of 80 for the MBOC's.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

1978 appropriations to date	$607, 506, 000
1978 supplemental estimate	----------
House allowance	549, 000
Committee recommendation	949, 000

There are critical gaps in the weather radar surveillance system that are the Nation's first-line of defense to natural disasters. The House has provided for the number one priority location, San Juan, Puerto Rico, by allowing $549,000 for the installation of a local weather radar. The number two priority location is eastern Kentucky which has been continually devastated by tornadoes and floods with the loss of many lives and millions in property damage. The Committee has added $800,000 to the bill for the installation of a weather surveillance radar in eastern Kentucky.

Last year Congress approved an expenditure of $2,276,000 by the National Marine Fisheries Service for the planning and construction of an aquaculture research laboratory in Newport, Oregon. Even though bids for the project were unusually high, construction is scheduled to begin this coming September. To provide adequate resources for final completion of this facility an additional $400,000 has been included to cover increased and unexpected costs.

National Fire Prevention and Control Administration

FACILITIES

1978 appropriations to date	----------
1978 supplemental estimate	----------
House allowance	----------
Committee recommendation	$6, 150, 000

The Committee recommends $6,150,000 to renovate the former Marjorie Webster Junior College property for use as a National Academy for Fire Prevention and Control. This amount represents the balance of the total authorized for this purpose—$9,000,000—less the funds appropriated to date of $2,600,000 for procuring the Marjorie Webster property, and $250,000 for design and architectural studies.

The Federal Fire Prevention and Control Act of 1974 (Public Law 93–498) established a National Fire Academy for Fire Prevention and

Control whose purpose is "to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities." The Fire Academy will provide direct Federal training at the site in such fields as the techniques of fire prevention, fire inspection, and fire arson investigation; tactics and command of firefighting; and administration and management of fire service operations.

Although the Administration has not submitted a request for funds to construct the Academy, a letter from the Office of Management and Budget dated June 19, 1978, indicates that "The Administration has no objection to the appropriation of funds to proceed with the renovation of the Marjorie Webster Junior College for use as a National Fire Academy subject to. . . . three conditions." A copy of this letter is included in this report. The Committee is extremely disappointed in the failure of the OMB to back up their approval of the Academy with a budget estimate.

Departmental witnesses testified that additional funds required to renovate the Fire Academy were estimated to be $6,043,000 before the project was deferred while the Administration reevaluated the need for a central training facility and the suitability of the Marjorie Webster site. This estimate included the renovation of three houses for dormitory space that are no longer part of the plan. Savings will result from not renovating these three houses, but the Committee understands that these savings probably are more than offset by additional costs resulting from further inflation resulting in part from the delay in the project. While precise estimates have not been provided to the Committee reflecting deletion of the three houses from the plan of the delayed start of site renovation, the Committee is providing funds so that the Academy renovation can proceed without further delay.

The letter from the Office of Management and Budget further states that the Administration believes the full renovation of the Marjorie Webster site can be accommodated within the existing $9,000,000 authorization. The Committee also expects that this can be accomplished.

The letter follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 19, 1978.

Hon. ERNEST F. HOLLINGS,
Chairman, State, Justice, Commerce, and the Judiciary Subcommittee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to our earlier correspondence concerning funding for a National Fire Academy.

The Administration has now reviewed the need for a central fire training facility and reconsidered the suitability of the Marjorie Webster Junior College site. Based on the report and the recommendation of the Department of Commerce, I wish to inform you that the Administration has no objection to the appropriation of funds to

proceed with the renovation of the Marjorie Webster Junior College for use as a National Fire Academy subject to the following three conditions: (1) that the three houses which are located on the Marjorie Webster site, but which are not judged to be suitable for institutional use, be sold; (2) that all students attending the Academy be housed on the Marjorie Webster campus, so as to maintain the total learning experience; and (3) that the Academy be renovated to ensure maximum potential housing for 240 on-site students.

We believe that the full renovation of the Marjorie Webster site for use as a National Fire Academy can be accommodated within the existing $9 million authorization provided for in the Federal Fire Prevention and Control Act of 1974 (Public Law 93–498).

I wish to thank you for your cooperation in providing time for the Administration to conduct a constructive review of the Fire Academy proposal.

Sincerely,

JAMES T. MCINTYRE, Jr., *Director.*

SCIENCE AND TECHNICAL RESEARCH

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

1978 appropriations to date	$72, 416, 000
1978 supplemental estimate	1, 569, 000
House allowance	900, 000
Committee recommendation	900, 000

The Committee recommends an additional $900,000 required for the National Bureau of Standards to begin implementation of section 383 of the Energy Policy and Conservation Act of 1975. Test procedures are to be developed over a period of several years for comparing re-refined or other processed used oil with new oil for a variety of uses. These procedures will provide the basis for Federal Trade Commission rulings for industry test procedures and labeling standards. Test procedures and standards should also provide consumers with a realistic means for evaluating recycled oil products thereby promoting their use.

The amount included in the bill will provide for service contracts, purchase of testing equipment and other start-up costs. Due to the short time remaining in the current fiscal year, the Committee has not included any of the funds requested for new positions for this project. The Committee approved funds for these positions in the fiscal year 1979 appropriations bill and recommends that the new personnel required for this project be hired when such funds become available.

A provision has been inserted in the bill to allow a reprogramming of $200,000 already available to equip the Gaithersburg laboratory buildings with environmental controls. The provision is necessary due to the provisions of 15 U.S.C. 278d that prohibits NBS from undertaking any improvement exceeding $75,000 in total cost without specific approval.

National Telecommunications and Information Administration

SALARIES AND EXPENSES

1978 appropriations to date	$4, 763, 000
1978 supplemental estimate	3, 775, 000
House allowance	3, 110, 000
Committee recommendation	3, 110, 000

The Committee recommends $3,110,000, a reduction of $665,000 from the budget request, to implement a classified communications project.

Maritime Administration

OPERATIONS AND TRAINING

1978 appropriations to date	$54, 200, 000
1978 supplemental estimate	----------
House allowance	----------
Committee recommendation	750, 000

The Committee recommends $750,000 in accordance with the 1978 Maritime Appropriations Authorization Act to improve living and training conditions aboard five training vessels on loan to the state maritime schools. Because of lack of funds in preceding years, the Maritime Administration has not been able to maintain the living quarters or provide adequate training equipment aboard these vessels as desired. This appropriation allows the Maritime Administration to improve these facilities as allowed in the authorization act.

THE JUDICIARY

Supreme Court of the United States

CARE OF THE BUILDING AND GROUNDS

1978 appropriations to date	$800, 000
1978 supplemental estimate	750, 000
House allowance	750, 000
Committee recommendation	750, 000

The Committee recommends the full amount requested, as the first increment of funds for repair and replacement of the roof of the Supreme Court building. The work will be done over a four-year period at a total estimated cost of $1,500, 000. The $750,000 included in the accompanying bill will finance the work planned for 1978 and 1979.

Courts of Appeals, District Courts, and other Judicial Services

SALARIES OF SUPPORTING PERSONNEL

1978 appropriations to date	$148, 400, 000
1978 supplemental estimate	156, 000
House allowance	----------
Committee recommendation	----------

The sum of $156,000 was requested for salaries of personnel to support the newly created district court for the Northern Mariana Islands. The Committee was informed that funds presently available in this account were adequate to cover the cost of personnel for the newly established court. Consequently, no additional funds are included in the accompanying bill.

TRAVEL AND MISCELLANEOUS EXPENSES

1978 appropriations to date	$27, 600, 000
1978 supplemental estimate	110, 000
House allowance	----------
Committee recommendation	----------

The sum of $110,000 was requested to finance travel and miscellaneous expenses associated with the recently created district court for the Northern Mariana Islands. Since funds presently available in this account are adequate to cover these costs, no additional funds are recommended in the accompanying bill.

SPECIAL RAIL REORGANIZATION COURT

1978 appropriations to date	----------
1978 supplemental estimate	$5, 875, 000
House allowance	2, 000, 000
Committee recommendation	2, 000, 000

The Committee recommends the appropriation of $2,000,000 for salaries and expenses of the special court established by the Rail Reorganization Act of 1973, as amended. This amount includes funds for the compensation and expenses of special masters appointed by the court to conduct hearings, receive evidence and report to the special court. It also includes funds for employees appointed by the court and for other operating expenses.

The budget request of $5,875,000 presented for this item included funds for a three-year period. The Committee feels it is appropriate to review the program and funding requirements on an annual basis, and consequently recommends funds sufficient to cover operations for only one year. It is expected that requests will be included in subsequent budgets, as additional funds are required in the operation of the court.

The Committee is concerned about the level of payments to the special masters to be appointed by the court, since there is no maximum amount in the authorization act. While it is appreciated that experts in this field are scarce and expensive, the Committee directs that it be supplied a report at the end of each quarter of those payments to special masters which exceed on an annual rate the $54,500 annual salary of a U.S. District Court Judge. The report should detail the name of the person compensated, the daily rate of compensation, the number of days paid, and the total amount paid during the quarter.

Federal Judicial Center

SALARIES AND EXPENSES

1978 appropriations to date	$6, 550, 000
1978 supplemental estimate	55, 000
House allowance	55, 000
Committee recommendation	55, 000

The bill includes $55,000 for salaries and expenses of the Federal Judicial Center. This amount, which is the full amount requested, is to provide for the salary of the Director of the Center. The original budget for 1978 and budgets for previous years did not include funds for the salary of the Director of the Center, since that position was held by a judge or justice who served without additional compensation. That is not the situation at the present time and additional funds are needed to pay the salary of the Director.

RELATED AGENCIES

Arms Control and Disarmament Agency

ARMS CONTROL AND DISARMAMENT ACTIVITIES

1978 appropriations to date	$13, 600, 000
1978 supplemental estimate	2, 570, 000
House allowance	2, 370, 000
Committee recommendation	2, 370, 000

The Committee recommends the appropriation of $2,370,000 in supplemental funds for arms control and disarmament activities. This amount, which is $200,000 less than the request, will support additional public information (including five additional positions) and external research programs and provide increased support to the nuclear safeguards programs and activities of the International Atomic Energy Agency.

Board for International Broadcasting

GRANTS AND EXPENSES

1978 appropriations to date	$65, 900, 000
1978 supplemental estimate	10, 468, 000
House allowance	10, 000, 000
Committee recommendation	10, 000, 000

The Committee recommends $10,000,000 in additional funding to cover uncontrollable and unanticipated costs of the operation of the Board for International Broadcasting and the funds granted to Radio Free Europe and Radio Liberty (RFE/RL, Inc.). The sum included in the bill will cover, in part, fluctuations in foreign currency exchange rates; certain prior year liabilities that were deferred until fiscal year 1978; completion of the consolidation process; increased utility costs, license fees, and taxes; and cost of living adjustments. In addition,

the amount recommended will provide for certain administrative expenses of the Board, including increased pay costs, increased charges for service contracts, and additional program evaluation.

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

1978 appropriations to date	$77, 050, 000
1978 supplemental estimate	13, 950, 000
House allowance	7, 500, 000
Committee recommendation	7, 500, 000

The Committee recommends $7,500,000 for the Equal Employment Opportunity Commission a reduction of $6,450,000 from the amount requested. This supplemental appropriation will provide $3,200,000 for pay cost increases, $3,000,000 for additional payments to State and local fair employment practices agencies, and $1,300,000 for employing 350 additional personnel and for other costs associated with implementing the internal reorganization of the Commission.

Federal Communications Commission

SALARIES AND EXPENSES

1978 appropriations to date	$61, 400, 000
1978 supplemental estimate	434, 000
House allowance	150, 000
Committee recommendation	150, 000

The Committee recommends an additional $150,000 for the Federal Communications Commission for the current fiscal year. This amount represents a reduction of $284,000 from the budget request. This supplemental funding is required to begin a program to refund broadcaster fees in compliance with a court order. These funds will provide for space alterations, purchase of equipment and supplies, and other start up costs. Because of the relatively short time remaining in the current fiscal year, the Committee has not included any funding in the bill for new positions for this program. The Committee has recommended the funding of these positions in the fiscal year 1979 appropriations bill.

The bill also includes a provision which will permit the FCC to pay 1976 postal expenses from 1978 appropriations currently available. The total additional amount owed to the Postal Service for 1976 is $799,979 of which $750,000 would be paid from fiscal year 1978 funds.

Federal Trade Commission

SALARIES AND EXPENSES

1978 appropriations to date	$59, 500, 000
1978 supplemental estimate	418, 000
House allowance	----------
Committee recommendation	----------

The Committee has not approved the supplemental request of $418,000 for the Federal Trade Commission to fund the higher rates of executive pay established in February 1977. A recent review of the Commission's financial situation indicated that litigation costs for fiscal year 1978 will be lower than orginally anticipated. Consequently, the Committee recommends that the Commission reprogram the appropriate amount from these savings to fund the executive salary increases.

International Communication Agency

SALARIES AND EXPENSES

1978 appropriations to date	$330, 683, 400
1978 supplemental estimate	1, 500, 000
House allowance	1, 500, 000
Committee recommendation	1, 500, 000

The Committee recommends the full amount requested, in supplemental funding to offset, in part, the effect on the Agency's program of the decline in the value of the dollar in foreign exchange.

Securities and Exchange Commission

SALARIES AND EXPENSES

1978 appropriations to date	$58, 100, 000
1978 supplemental estimate	1, 425, 000
House allowance	1, 375, 000
Committee recommendation	1, 375, 000

The Committee recommends $1,375,000 in additional appropriations for the Securities and Exchange Commission for fiscal year 1978. This amount is $50,000 less than the budget request. This supplemental appropriation will provide funding for the higher rates of executive pay established in February 1977, additional office space made available to the Commission, and other unanticipated cost increases, including the increased cost of publishing notices in the Federal Register as required by Public Law 95–94.

Small Business Administration

DISASTER LOAN FUND

1978 appropriations to date	$2, 265, 000, 000
1978 supplemental estimate	378, 000, 000
House allowance	
Committee recommendation	378, 000, 000

The Committee recommends the addition of $378,000,000 not considered by the House to enable the Small Business Administration to continue to provide financial assistance to disaster victims who have suffered damages from storms, floods, droughts, and other physical disasters. An advance copy of the supplemental budget has been supplied the Committee and the formal request from the President is expected momentarily.

It is recommended that the $375,000,000 included in the bill for disaster loans remain available without fiscal year limitation. This amount is for additional capital for the "Disaster Loan Fund," the revolving fund from which disaster loans are made. A total of $2,265,000,000 has already been appropriated to this fund for the current fiscal year—$115,000,000 in the regular Appropriation bill for fiscal year 1978, $1,400,000,000 in the Supplemental Appropriations Act, 1978, and $750,000,000 in the Small Business Administration Disaster Loan Supplemental Appropriation Act, 1978. In addition, it is estimated that a net of $255,000,000 will be available from other sources, primarily loan repayments.

The Small Business Administration now estimates nearly 153,000 physical disaster loan approvals during fiscal year 1978, with an estimated value of $2,685,000,000. Considering the funds already available and the $210,000,000 designated for non-physical disaster loans, the additional $375,000,000 is necessary to meet the projected demand.

The current interest rates that apply to these disaster loans, as provided in Public Law 95–89, are as follows:

Home:
1 percent for first $10,000;
3 percent for next $30,000; and
6⅝ percent thereafter.
Business:
3 percent for first $250,000;
6⅝ percent thereafter.
Economic Injury:
3 percent for first $25,000;
6⅝ percent thereafter.

Of the total amount recommended in the bill, $3,000,000 is to be transferred to the "Salaries and expenses" appropriation. These funds, which are used primarily for employing temporary personnel, are required for the processing and administering of disaster loans.

United States Metric Board

SALARIES AND EXPENSES

1978 appropriations to date	$365,000
1978 supplemental estimate	275,000
House allowance	275,000
Committee recommendation	

The Committee recommends $275,000 for the new United States Metric Board. This amount is a reduction of $90,000 from the budget estimate.

The Metric Conversion Act of 1975 (Public Law 94–168) established the Metric Board to coordinate the voluntary conversion of the United States to the metric system. The Board was constituted in April, 1978. This appropriation will provide for the operation of the Board for the remainder of this fiscal year and includes funds for the expenses of the Members of the Board, initial staffing costs, and support contracts.

Increased Pay Costs

The Committee considered budget requests totalling $166,839,800 for increased pay costs for the Departments of State, Justice, and Commerce, the Federal Judiciary and related agencies. Title II of the accompanying bill includes a total of $156,117,000 in new budget authority for these departments and agencies, reflecting a reduction of $10,722,800 from the total amount requested. In addition an increase of $4,500,000 to be derived by transfer from other appropriations and an increase of $220,000 in limitations are included in Title II to fund increased pay costs.

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COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

Requested in H. Doc. 95-281 as amended by[1]	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER VIII					
	DEPARTMENT OF STATE					
	ADMINISTRATION OF FOREIGN AFFAIRS					
	Salaries and expenses	$3,250,000	$1,450,000	$1,450,000	−$1,800,000	
	Acquisition, operation, and maintenance of buildings abroad	10,000,000	10,000,000	10,000,000		
	Payment to the Foreign Service retirement and disability fund	11,008,000	11,008,000	11,008,000		
	Total, Administration of Foreign Affairs	24,258,000	22,458,000	22,458,000	−1,800,000	
	INTERNATIONAL ORGANIZATIONS AND CONFERENCES					
95-331	Contributions to international organizations	64,127,000	64,127,000	64,127,000		
	Contributions for international peacekeeping activities	20,400,000	20,400,000	20,400,000		
	Missions to international organizations	1,117,000	900,000	727,000	−390,000	−$173,000
	International trade negotiations	412,000	412,000	412,000		
	Total, International Organizations and Conferences	86,056,000	85,839,000	85,666,000	−390,000	−173,000
	INTERNATIONAL COMMISSIONS					
	International fisheries commissions	519,000	500,000	500,000	−19,000	
	Total, Department of State	110,833,000	108,797,000	108,624,000	−2,209,000	−173,000
	DEPARTMENT OF JUSTICE					
	GENERAL ADMINISTRATION					
	Salaries and expenses	368,000	368,000	368,000		

	LEGAL ACTIVITIES					
S. Doc. 95-106 and S. Doc. 95	Salaries and expenses, general legal activities	724,000	400,000	400,000	−324,000	
	Salaries and expenses, Antitrust Division	864,000	628,000		−864,000	−628,000
	Salaries and expenses, U.S. attorneys and marshals	4,495,000	1,445,000	4,495,000		+3,050,000
	Total, Legal Activities	6,083,000	2,473,000	4,895,000	−1,188,000	+2,422,000
	IMMIGRATION AND NATURALIZATION SERVICE					
95-331	Salaries and expenses	3,750,000	3,750,000	3,750,000		
	Total, Department of Justice	10,201,000	6,591,000	9,013,000	−1,188,000	+2,422,000
	DEPARTMENT OF COMMERCE					
	BUREAU OF THE CENSUS					
	Periodic censuses and programs	2,580,000	2,180,000	2,180,000	−350,000	
	ECONOMIC DEVELOPMENT ADMINISTRATION					
	Economic development assistance programs	117,000,000	106,000,000	117,000,000		+11,000,000
	Administration of economic development assistance programs	250,000	40,000	40,000	−210,000	
	Total, Economic Development Administration	117,250,000	106,040,000	117,040,000	−210,000	+11,000,000
	INDUSTRY AND TRADE ADMINISTRATION					
	Operations and administration	3,360,000	2,630,000	2,630,000	−730,000	
	NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION					
	Operations, research, and facilities		540,000	1,740,000	+1,740,000	+1,200,000
	NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION					
	Facilities			6,150,000	+6,150,000	+6,150,000
	SCIENCE AND TECHNICAL RESEARCH					
	Scientific and technical research and services	1,569,000	900,000	900,000	−669,000	
	NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION					
95-331	Salaries and expenses	3,775,000	3,110,000	3,110,000	−665,000	

[1] Documents are H. Doc. unless otherwise noted.

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COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

Requested in H. Doc. 95-281 as amended by [1]	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	MARITIME ADMINISTRATION					
	Operations and training			$750,000	+$750,000	+$750,000
	Total, Department of Commerce	$128,484,000	$115,409,000	134,509,000	+6,025,000	+19,100,000
	THE JUDICIARY					
	SUPREME COURT OF THE UNITED STATES					
S. Doc. 95-106	Care of the building and grounds	750,000	750,000	750,000		
	COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES					
	Salaries of supporting personnel	156,000			−156,000	
	Travel and miscellaneous expenses	110,000			−110,000	
	Special rail reorganization court	5,875,000	2,000,000	2,000,000	−3,875,000	
	Total, Courts of Appeals, District Courts, and other Judicial Services	6,141,000	2,000,000	2,000,000	−4,141,000	
	FEDERAL JUDICIAL CENTER					
	Salaries and expenses	55,000	55,000	55,000		
	Total, the Judiciary	6,946,000	2,805,000	2,805,000	−4,141,000	

	RELATED AGENCIES					
	ARMS CONTROL AND DISARMAMENT AGENCY					
	Arms control and disarmament activities	2,570,000	2,370,000	2,370,000	−200,000	
	BOARD FOR INTERNATIONAL BROADCASTING					
	Grants and expenses	10,468,000	10,000,000	10,000,000	−468,000	
	EQUAL EMPLOYMENT OPPORTUNITY COMMISSION					
	Salaries and expenses	13,950,000	7,500,000	7,500,000	−6,450,000	
	FEDERAL COMMUNICATIONS COMMISSION					
95-331	Salaries and expenses	434,000	150,000	150,000	−284,000	
	FEDERAL TRADE COMMISSION					
	Salaries and expenses	418,000			−418,000	
	INTERNATIONAL COMMUNICATION AGENCY					
	Salaries and expenses	1,500,000	1,500,000	1,500,000		
	SECURITIES AND EXCHANGE COMMISSION					
	Salaries and expenses	1,425,000	1,375,000	1,375,000	−50,000	
	SMALL BUSINESS ADMINISTRATION					
S. Doc. 95-	Disaster loan fund	378,000,000		378,000,000		+378,000,000
	U.S. METRIC BOARD					
95-331	Salaries and expenses	365,000	275,000	275,000	−90,000	
	Total, Related Agencies	409,130,000	23,170,000	401,170,000	−7,960,000	+378,000,000
	Total, Chapter VIII: New budget (obligational) authority	665,594,000	256,772,000	656,121,000	−9,473,000	+399,349,000

[1] Documents are H. Doc. unless otherwise noted.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

WORKING CAPITAL FUND

1978 appropriation to date	($39, 847, 000)
1978 supplemental request	(9, 000, 000)
House allowance	(9, 000, 000)
Committee recommendation	(9, 000, 000)

The Committee recommends the full amount requested for the procurement of high speed computer equipment. These funds will be transferred from unobligated balances in the appropriation "Transportation Planning, Research, and Development."

Coast Guard

OPERATING EXPENSES

1978 appropriation to date	$878, 865, 000
1978 supplemental request	12, 370, 000
House allowance	12, 370, 000
Committee recommendation	12, 370, 000

The Committee recommends $12,370,000 for additional operating expenses of the Coast Guard. These funds are necessary in 1978 to cover increased expenses associated with expanded drug interdiction and fisheries law enforcement activities; operation and maintenance of the loran-C navigation system in support of NATO. Funds are also provided to repair winter storm damage to equipment and facilities and to correct a safety hazard on USCG vessels.

The Committee also concurs with the House language stating that the Coast Guard should continue the operation of the CGC *Duane*, in light of the direction of both Houses in reports accompanying H.R. 12933.

ACQUISITION, CONSTRUCTION AND IMPROVEMENTS

1978 appropriation to date	$236, 000, 000
1978 supplemental request	----------
House allowance	----------
Committee recommendation	60, 000, 000

The Committee recommends an appropriation of $60,000,000 for the procurement, including design and construction of an icebreaker to replace the CGC *Westwind*. Testimony indicates that this vessel, which was acquired in 1944 has reached the end of its effective life and that a replacement is needed as quickly as possible to insure continued safety and cost effectiveness by the Coast Guard in carrying out its mission in connection with icebreaking in the Great Lakes. Authority for this procurement is contained in Public Law 95–61.

RETIRED PAY

1978 appropriation to date	$155, 401, 000
1978 supplemental request	2, 399, 000
House allowance	2, 000, 000
Committee recommendation	2, 000, 000

The Committee recommends a supplemental appropriation of $2 million for Coast Guard retired pay. This is $399,000 below the budget request, and is possible due to recomputation of the amounts needed based on more recent data.

Federal Aviation Administration

PROPOSED LANGUAGE

The Committee has not included the requested addition of language to exempt foreign applicants from the prohibition contained in the 1978 appropriation, and the four previous bills, against the imposition by DOT of user fees without prior approval of the appropriate committees of the Congress. The Committee does not feel that foreign applicants should be treated differently from domestic applicants for FAA certification.

National Highway Traffic Safety Administration

STATE AND COMMUNITY HIGHWAY SAFETY

1978 appropriation to date	$78, 388, 000
1978 supplemental request	524, 000
House allowance	524, 000
Committee recommendation	524, 000

The Committee recommends the full budget request of $524,000 for incentive grants to Guam and the Virgin Islands. The grants are in recognition of a 52 percent reduction in highway fatalities in the Virgin Islands and a 29 percent reduction in Guam.

Federal Railroad Administration

OFFICE OF THE ADMINISTRATOR

1978 appropriation to date	$6, 950, 000
1978 supplemental request	500, 000
House allowance	150, 000
Committee recommendation	150, 000

The Committee recommends $125,000 for contractual services and $25,000 for 12 of 16 requested positions. The $150,000 provided is $350,000 below the budget request.

RAIL SERVICE ASSISTANCE

1978 appropriation to date	$81, 500, 000
1978 supplemental request	2, 500, 000
House allowance	1, 500, 000
Committee recommendation	1, 500, 000

The $1,500,000 recommended is $1,000,000 below the budget request. Ten of the 12 positions requested are approved. Six of these positions are to expedite the planning and implementation of the Northeast Corridor Improvement Project.

Reductions below the budget request are: $700,000 for an Amtrak route study, $70,000 from funds for a study of ConRail finances, $100,000 from computer time sharing, and $130,000 from new personnel requests.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

1978 appropriation to date	$664, 500, 000
1978 supplemental request	[1] 51, 500, 000
House allowance	29, 500, 000
Committee recommendation	51, 500, 000

[1] $22,000,000 budget request pending for capital grants.

The Committee recommends an appropriation of $29.5 million to continue the operation of the present Amtrak system during the balance of fiscal 1978, together with an additional $22 million for capital grants. These capital funds will permit Amtrak to preserve current contract options for equipment essential to Northeast corridor operations and to meet the trip time goals prescribed by the Railroad Revitalization and Regulatory Reform Act of 1976.

These appropriations, together with the previous appropriations of $506,500,000 for operations, $108,000,000 for capital grants, $25,000,000 for payments on the Northeast corridor purchase, and $25,000,000 to retire long-term debt brings the total fiscal 1978 appropriations for Amtrak to $716,000,000.

URBAN MASS TRANSPORTATION ADMINISTRATION

LIMITATION ON COMMITMENTS

1978 appropriation to date	($2, 365, 000, 000)
1978 supplemental request	(49, 479, 000)
House allowance	(40, 000, 000)
Committee recommendation	(40, 000, 000)

The Committee recommends an increase in the limitation on commitments of $40 million. This will allow $40 million of unobligated balances from prior years for rail service operating payments to be commited during 1978.

MATERIALS TRANSPORTATION BUREAU

MATERIALS TRANSPORTATION PROGRAM

1978 appropriation to date	$8, 100, 000
1978 supplemental request	636, 000
House allowance	----------
Committee recommendation	----------

The Committee has not approved the budget request for monitoring of the Alaska natural gas pipeline. $1,061,000 was provided by the conferees on the fiscal 1979 appropriation bill, H.R. 12933. The Committee feels that if work must begin in 1978 sufficient funds should be available from unobligated sources.

RELATED AGENCIES

CIVIL AERONAUTICS BOARD

SALARIES AND EXPENSES

1978 appropriation to date	$23, 367, 000
1978 supplemental request	700, 000
House allowance	700, 000
Committee recommendation	700, 000

The Committee recommends a supplemental appropriation to cover the cost of executive level pay increase, $400,000, and to reimburse the Government Printing Office for printing costs, $300,000. The latter is in compliance with the Legislative Branch Appropriations Act of 1978.

PAYMENTS TO AIR CARRIERS

(Liquidation of Contract Authorization)

1978 appropriation to date	$72, 510, 000
1978 supplemental request	(9, 940, 000)
House allowance	(9, 940, 000)
Committee recommendation	(9, 940, 000)

The bill includes the full budget request of $9,940,000 for payments to certain eligible air carriers to insure that some small communities which would otherwise not have air carrier service continue to be served.

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Interstate Commerce Commission

SALARIES AND EXPENSES

1978 appropriation to date	$59, 717, 000
1978 supplemental request	2, 300, 000
House allowance	2, 300, 000
Committee recommendation	2, 300, 000

The Committee recommends the full budget request for salaries and expenses of the ICC. Increases in the executive level pay account for $700,000. The remaining $1,600,000 is to reimburse the Government Printing Office for printing expenses, in accordance with the Legislative Branch Appropriations Act of 1978.

The Committee directs the ICC to take action to alleviate the severe shortage of railroad cars for the transportation of coal from the Appalachian coal fields.

INCREASED PAY COST

Title II of the bill includes $139,667,000 to cover increased pay costs, this is a reduction of $4,859,000 below the budget request. The Committee also considered transfer requests of $66,677 and $7,591,000 in increases in limitations on administrative expenses. The bill includes $63,331 and $6,661,000, respectively.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

H. Doc. 95-281 except as noted	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER IX					
	DEPARTMENT OF TRANSPORTATION					
	OFFICE OF THE SECRETARY					
	Working capital fund (by transfer)	($9,000,000)	($0,000,000)	($9,000,000)	.....	.....
	COAST GUARD					
95-331	Operating expenses	12,370,000	12,370,000	12,370,000	.....	.....
.....	Acquisition construction and improvements	.....	.....	60,000,000	+$60,000,000	+$60,000,000
	Retired pay	2,399,000	2,000,000	2,000,000	−399,000	.....
	Total, Coast Guard	14,769,000	14,370,000	74,370,000	+59,601,000	+60,000,000
	FEDERAL HIGHWAY ADMINISTRATION					
	Darien Gap Highway	20,000,000	.....	.....	−20,000,000	.....
	NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION					
	State and community highway safety	524,000	524,000	524,000	.....	.....
	FEDERAL RAILROAD ADMINISTRATION					
	Office of the Administrator	500,000	150,000	150,000	−350,000	.....
	Rail Service Assistance	2,500,000	1,500,000	1,500,000	−1,000,000	.....
S. Doc. 95-106	Grants to the National Railroad Passenger Corporation	[1]51,500,000	29,500,000	51,500,000	.....	+22,000,000
	Total, Federal Railroad Administration	54,500,000	31,150,000	53,150,000	−1,350,000	+22,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

H. Doc. 95-281 except as noted	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	URBAN MASS TRANSPORTATION ADMINISTRATION					
	Urban mass transportation fund (limitation on commitments, increase in limitation)	($49,479,000)	($40,000,000)	($40,000,000)	(−$9,479,000)	
	MATERIALS TRANSPORTATION BUREAU					
	Materials transportation program	636,000			−636,000	
	Total, Department of Transportation	80,429,000	46,044,000	128,044,000	+37,615,000	+$82,000,000
	(By transfer)	(9,000,000)	(9,000,000)	(9,000,000)		
	(Increase in limitation of commitment)	(49,479,000)	(40,000,000)	(40,000,000)	(−9,479,000)	
	RELATED AGENCIES					
	CIVIL AERONAUTICS BOARD					
	Salaries and expenses	700,000	700,000	700,000		
	Payments to air carriers: (Appropriation to liquidate contract authorization)	(9,940,000)	(9,940,000)	(9,940,000)		
	INTERSTATE COMMERCE COMMISSION					
	Salaries and expenses	2,300,000	2,300,000	2,300,000		
	Total, chapter IX:					
	New budget (obligational) authority	93,429,000	49,044,000	131,044,000	+37,615,000	+82,000,000
	(By transfer)	(9,000,000)	(9,000,000)	(9,000,000)		
	(Appropriation to liquidate contract authority)	(9,940,000)	(9,940,000)	(9,940,000)		
	(Increase in limitation on commitments)	(49,479,000)	(40,000,000)	(40,000,000)	(−9,479,000)	

[1] Includes pending budget request of $22,000,000 for Amtrak capital grants, which is expected prior to final Senate action.

CHAPTER X

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

SALARIES AND EXPENSES

1978 appropriations to date	$12,000,000
1978 supplemental estimate	1,515,000
House allowance	1,000,000
Committee recommendation	1,000,000

The Committee recommends concurrence with the House allowance of $1,000,000 and 14 additional permanent positions. This is a reduction of $515,000 below the supplemental estimate.

The funding provided will allow training of additional law enforcement personnel to be trained at the Center's facility at Glynco, Ga. The current fiscal year 1978 appropriation provides for a student pipeline of 501 students representing 25,051 weeks of training for 7,005 students. Increased requirements by a number of participating agencies including the Internal Revenue Service and the Immigration and Naturalization Service have increased the workload estimate to a pipeline of 665 students representing 33,256 weeks of training for 7,288 students.

The Committee is concerned over the increased training requirements that were accepted by the Center subsequent to approval of the fiscal year 1978 appropriation and the beginning of the fiscal year. The Committee notes that the Center is currently responsible for the per diem and transportation of students from participating agencies. This allows participating agencies to increase their requirements for student training without consideration of the financial consequences. The Center is advised to consider future increased requirements of participating agencies that cannot be accommodated in their annual appropriation in a most judicious manner.

Bureau of Government Financial Operations

SALARIES AND EXPENSES

1978 appropriations to date	$147,000,000
1978 supplemental estimate	[1] 11,250,000
House allowance	6,750,000
Committee recommendation	6,750,000

[1] S. Doc. 95–110 reduced request by $2,250,000 from $13,500,000 to $11,250,000 to reflect postponement of effective date for compensating banks for maintaining tax and loan accounts.

The Committee recommends concurrence with the House allowance of $6,750,000 for the Bureau of Government Financial Operations. This is a reduction of $4,500,000 below the supplemental estimate.

The funding allowed will provide $4,500,000 for additional postage requirements incident to the postal rate increase of May 1978 and $2,250,000 to initiate payments to commercial banks for maintenance of tax and loan accounts. Although the original date for initiation of this program was April 1, 1978, it now appears that only a payment for September 1978 will be required during fiscal year 1978.

Bureau of Government Financial Operations

PAYMENTS TO THE GOVERNMENT OF GUAM

1978 appropriations to date	[1] $3,000,000
1978 supplemental estimate	3,000,000
House allowance	3,000,000
Committee recommendation	3,000,000

[1] Contained in S. Doc. 95–106.

The Committee recommends concurrence with the House allowance and the supplemental request of $3,000,000 for the Payments to the Government of Guam appropriation.

The appropriation will allow a one-time payment to the Government of Guam for tax losses incurred in 1977, pursuant to section 407 of the Tax Reduction and Simplification Act of 1977.

Bureau of the Public Debt

ADMINISTERING THE PUBLIC DEBT

1978 appropriations to date	$118,214,000
1978 supplemental estimate	[1]
House allowance	
Committee recommendation	

[1] S. Doc. 95–106 rescinded estimate of $15,512,000 due to delay in implementing the effective date for payment of increased fees to issuing agents and an increased rate of compensation to paying agents for the issuance and redemption of U.S. Savings Bonds and savings notes.

Internal Revenue Service

SALARIES AND EXPENSES

1978 appropriations to date	$51,000,000
1978 supplemental estimate	400,000
House allowance	400,000
Committee recommendation	400,000

The Committee recommends concurrence with the House allowance and the supplemental estimate of $400,000 and five additional permanent personnel positions for the salaries and expenses appropriation of the Internal Revenue Service.

The appropriation will provide personnel and funding to assist the Service in administering its additional responsibilities under the Tax Reduction and Simplification Act of 1977 and the expanded program to match information documents with tax returns. In addition, funding is provided to meet the increases in Government mileage and per diem allowances, health benefit rates, and for printing IRS notices in the Federal Register.

ACCOUNTS, COLLECTION AND TAXPAYER SERVICE

1978 appropriations to date	$870, 300, 000
1978 supplemental estimate	10, 800, 000
House allowance	5, 400, 000
Committee recommendation	9, 900, 000

The Committee recommends an appropriation of $9,900,000 and 58 permanent personnel positions for the Accounts, Collection and Taxpayer Service appropriation of the Internal Revenue Service. This is an increase of $4,500,000 above the House allowance and a reduction of $900,000 below the supplemental estimate.

The funding allowed will assist IRS in complying with the additional responsibilities placed on the Service by the Tax Reduction and Simplification Act of 1977, allow increased matching of information documents with tax returns, initiate a long-range replacement and enhancement program for data processing, and provide funding to meet increases in Government mileage and per diem allowances, health benefit rates, and for printing IRS notices in the Federal Register.

COMPLIANCE

1978 appropriations to date	$938, 500, 000
1978 supplemental estimate	4, 100, 000
House allowance	4, 100, 000
Committee recommendation	1, 600, 000

The Committee recommends an appropriation of $1,600,000 for the Compliance appropriation of the Internal Revenue Service. This is a reduction of $2,500,000 below the supplemental estimate and the House allowance.

The appropriation will provide funding to meet increases in government mileage and per diem allowances, health benefit rates and for reimbursement to the Government Printing Office for printing official notices of the Internal Revenue Service in the Federal Register.

U.S. Secret Service

SALARIES AND EXPENSES

1978 appropriations to date	$123, 000, 000
1978 supplemental estimate	[1] 5, 400, 000
House allowance	5, 000, 000
Committee recommendation	5, 000, 000

[1] Includes increase of $1,000,000 contained in S. Doc. 95–106.

The Committee recommends concurrence with the House allowance of $5,000,000 and three permanent personnel positions for the U.S. Secret Service. This is a reduction of $400,000 below the supplemental estimate.

The appropriation will provide funding to reimburse other Federal agencies for services performed in support of Secret Service protective missions in accordance with Public Law 94–524, support increased travel requirements, increased allowances for permanent change of station moves, increased costs of health benefits and payments to the Employees Compensation Fund.

The House reduced the amount available for reimbursement to other Federal agencies by $400,000. The Committee concurs in this reduction and notes actual obligations for fiscal year 1977 were $1,832,215.

The Committee is concerned with the ever increasing cost of protective missions. The additional travel request is only one example. Travel during fiscal year 1978 is estimated to exceed $8 million. The Treasury Department and the U.S. Secret Service are advised that the Committee in the near future will convene an oversight hearing relative to the assigned responsibilities of the Service.

U.S. Postal Service

PAYMENT TO THE POSTAL SERVICE FUND

1978 appropriations to date	$1,695,540,000
1978 supplemental estimate	91,959,000
House allowance	91,748,000
Committee recommendation	91,748,000

The Committee recommends concurrence with the House allowance of $91,748,000 for the U.S. Postal Service. This is a reduction of $211,000 below the supplemental estimate.

The recommended appropriation will provide funding for the additional revenue foregone by the U.S. Postal Service during fiscal year 1978 as a result of the postal rate increase of May 29, 1978 and provide $987,000 to reimburse the Postal Service for expenses of the Commission on Postal Service. The Commission was directed by Public Law 94–421. A final report has been sent to the President and the Congress.

National Security Council

SALARIES AND EXPENSES

1978 appropriations to date	$3,000,000
1978 supplemental estimate	160,000
House allowance	160,000
Committee recommendation	160,000

The Committee recommends concurrence with the supplemental estimate and the House allowance of $160,000.

The recommended amount will allow the National Security Council to hire personnel to its authorized level of 64 permanent personnel positions and complete essential contract studies. Council officials testified to the expanding workload and thinness of coverage which presently exists.

Office of Management and Budget

SALARIES AND EXPENSES

1978 appropriations to date	$28,830,000
1978 supplemental estimate	[1] 1,512,000
House allowance	1,512,000
Committee recommendation	1,512,000

[1] Includes increase of $877,000 contained in H. Doc. 95–331.

The Committee recommends concurrence with the supplemental estimate and the House allowance of $1,512,000 and six permanent personnel positions for the Office of Management and Budget.

The recommended appropriation will provide funding to support the executive pay increase authorized by Public Law 90–206, a reestimation of building service charges to be reimbursed to the General Services Administration, support the transfer of the Federal Assistance Program Retrieval System from the Department of Agriculture, and support increased study efforts which have been directed by the Congress. These studies include a policy review of the Government-wide grants and cooperative agreements system, joint-funding, and financial and program-related information systems on grant awards for State and local governments.

Civil Service Commission

SALARIES AND EXPENSES

	Direct appropriation	*By transfer from trust funds*
1978 appropriations to date	$110, 930, 000	($30, 065, 000)
1978 supplemental estimate	447, 000	(1, 027, 000)
House allowance	372, 000	(1, 027, 000)
Committee recommendation	372, 000	(1, 027, 000)

The Committee recommends concurrence with the House allowance of a direct appropriation of $372,000 and seven permanent personnel positions and a transfer of $1,027,000 from trust funds administered by the Civil Service Commission. The recommendation is a reduction of $75,000 in direct appropriation.

The recommended appropriation will provide funding to complete the Federal personnel management reorganization effort directed by the President and provide for initiation of a new administrative complaint procedure for the handicapped—both current employees and applicants for Federal positions.

The supplemental estimate included $75,000 for the administrative cost of initiating the Presidential management intern program which was directed by Executive Order 12008. The Committee concurs in the House denial of funding for this program. The Committee is increasingly concerned with the establishment by the President of new programs by executive order prior to completion of the appropriation process.

The Committee believes the objective of the program—to attract highly committed persons with graduate degrees from public management programs into the career Civil Service—to be extremely worthwhile. However, it is noted that this program is well underway—the selection process has been completed, some finalists have accepted positions—yet, the appropriation of funding for this program remains under consideration. The Civil Service Commission is advised to more adequately justify new programs to the Congress and await appropriation enactment prior to program implementation.

PAYMENT TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND

1978 appropriations to date	$1,737,070,000
1978 supplemental estimate	428,758,000
House allowance	428,758,000
Committee recommendation	428,758,000

The Committee recommends concurrence with the supplemental estimate and the House allowance of $428,758,000 for the contribution to the Civil Service Retirement and Disability Fund.

The recommended appropriation will provide for the mandated payment, which is made in 30 equal annual installments, to cover the unfunded liability created by new statutues liberalizing benefits. The provisions of the Civil Service Retirement Amendments of 1969 provides that the initial payment is due as of the end of the fiscal year in which the extension of coverage or pay increase is effective. The recommended appropriation is required to support the unfunded liability created by the October 1977 civilian pay increase.

General Services Administration

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

1978 appropriations to date	$67,134,000
1978 supplemental estimate	[1] 1,419,000
House allowance	400,000
Committee recommendation	400,000

[1] Contained in H. Doc. 95–331.

The Committee recommends concurrence with the House allowance of $400,000 and 20 permanent personnel positions for the National Archives and Records Service. The recommendation is a reduction of $1,019,000 below the supplemental estimate.

The recommended appropriation will provide funding to initiate processing of the Nixon Presidential materials in accordance with the Presidential Recordings and Materials Preservation Act of 1974 (Public Law 93–526). Material to be processed includes approximately 6,000 hours of recorded conversation and 36 million pages.

Federal Preparedness Agency

SALARIES AND EXPENSES

1978 appropriations to date	$38,800,000
1978 supplemental estimate	70,500,000
House allowance	
Committee recommendation	

The Committee recommends concurrence with the denial by the House of supplemental funding for the Federal Preparedness Agency.

The supplemental estimate of $70,500,000 was requested to initiate an ambitious acquisition program to extend the capability of the Strategic and Critical Materials Stockpile to support the Nation's military and industrial needs for the first 3 years of a major two front conventional conflict. This program will require acquisitions exceeding $6 billion over a 10 to 15 year period.

Appropriate authorizing legislation is currently pending. The Committee recommends concurrence with the House denial, without prejudice, pending completion of the authorization process.

REFUNDS UNDER RENEGOTIATION ACT

1978 appropriations to date	
1978 supplemental estimate	$1,000,000
House allowance	1,000,000
Committee recommendation	1,000,000

The Committee recommends concurrence with the supplemental estimate and the House allowance of $1,000,000 for the Refunds under Renegotiation Act appropriation.

The recommended appropriation will provide funding to pay claims pursuant to decisions of the U.S. Court of Claims relative to refund and rebate payments authorized by the Renegotiation Acts to World War II contractors. Refunds are authorized under the Renegotiation Act of 1951 and rebates under the Renegotiation Act of 1943. Presently unobligated is $344,000.

GENERAL PROVISION

The Committee recommends concurrence with the appropriation language of the House making available funds for the payment of the following claims:

Project	*Total settled claim*
Arizona: Nogales, West Border Station	$50,400
Delaware: Wilmington, Courthouse, Customhouse and Federal Office building	12,000
Virginia: Quantico, Federal Bureau of Investigation Academy	90,447
Arkansas: Fayetteville, Courthouse, Federal Office building	110,200
Total	$263,047

The language requested would have allowed any available funding in the Federal Buildings Fund to be used for making payments to settle construction claims. Consideration and appropriation action on a case by case basis will provide for improved control of the claims process.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

Requested in H. Doc. 95-281 as amended by [1]	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER X					
	DEPARTMENT OF THE TREASURY					
	Federal Law Enforcement Training Center	$1,515,000	$1,000,000	$1,000,000	−$515,000	
	Bureau of Government Financial Operations:					
S. Doc. 95-110	Salaries and expenses	11,250,000	6,750,000	6,750,000	−4,500,000	
S. Doc. 95-106	Payments to the government of Guam	3,000,000	3,000,000	3,000,000		
	Internal Revenue Service:					
	Salaries and expenses	400,000	400,000	400,000		
	Accounts, collection and taxpayer service	10,800,000	5,400,000	9,900,000	−900,000	+$4,500,000
	Compliance	4,100,000	4,100,000	1,600,000	−2,500,000	−2,500,000
	Total, Internal Revenue Service	15,300,000	9,900,000	11,900,000	−3,400,000	+2,000,000
S. Doc. 95-106	United States Secret Service	5,400,000	5,000,000	5,000,000	−400,000	
	Total, Department of the Treasuty	36,465,000	25,650,000	27,650,000	−8,815,000	+2,000,000

	UNITED STATES POSTAL SERVICE					
	Payment to the Postal Service Fund	91,959,000	91,748,000	91,748,000	−211,000	
	EXECUTIVE OFFICE OF THE PRESIDENT					
	National Security Council	160,000	160,000	160,000		
95-331	Office of Management and Budget	1,512,000	1,512,000	1,512,000		
	Total, Executive Office of the President	1,672,000	1,672,000	1,672,000		
	INDEPENDENT AGENCIES					
	Civil Service Commission:					
	Salaries and expenses	447,000	372,000	372,000	−75,000	
	(By transfer)	(1,027,000)	(1,027,000)	(1,027,000)		
	Payment to civil service retirement and disability fund	428,758,000	428,758,000	428,758,000		
	Total, Civil Service Commission	429,205,000	429,130,000	429,130,000	−75,000	
	General Services Administration:					
	National Archives and Records Service: Operating expenses	1,419,000	400,000	400,000	−1,019,000	
95-331	Preparedness activities: Federal Preparedness Agency: Salaries and expenses	70,500,000			−70,500,000	
	General activities: Refunds under Renegotiation Act	1,000,000	1,000,000	1,000,000		
	Total, General Services Administration	72,919,000	1,400,000	1,400,000	−71,519,000	
	Total, Independent Agencies	502,124,000	430,530,000	430,530,000	−71,594,000	
	Total, chapter X:					
	New budget (obligational) authority	632,220,000	549,600,000	551,600,000	−80,620,000	+2,000,000
	(Increase in limitations)	(1,027,000)	(1,027,000)	(1,027,000)		

[1] Documents are H. Doc. unless otherwise noted.

CHAPTER XI

DEPARTMENT OF DEFENSE—MILITARY

Summary of Committee Action

The Committee recommends an appropriation of $2,566,992,000. This is $331,769,000 below the supplemental request of $2,898,761,000 and $58,000,000 below the House allowance.

The title I request of $748,000,000 covers increased subsistence costs, increases in military retired pay, currency revaluation, and indirect hire foreign national pay increases. The Committee recommends $514,766,000 in title I which is $85,000,000 below the House allowance and $233,234,000 below the budget request. The cost of the pay raises effective October 1, 1977, requested in title II, is $2,150,761,000. The Committee recommendation is $27,000,000 above the House allowance and $98,535,000 below the budget request.

TITLE I

Subsistence Costs

1978 Appropriations to date	$502,700,000
1978 Supplemental estimate	32,336,000
House allowance	48,536,000
Committee recommendation	48,536,000

The Committee recommends an appropriation of $48,536,000 to cover increases in the cost of food served to enlisted personnel in dining halls. This is the same amount as appropriated by the House, and represents an increase of $16,200,000 over the supplemental request. This increase is required to cover food cost increases that have occurred since submission of the fiscal year 1978 supplemental request in January 1978.

Military Retired Pay

1978 appropriations to date	$9,010,000,000
1978 supplemental estimate	229,600,000
House allowance	169,600,000
Committee recommendation	169,600,000

The Department requested $229,600,000 for military retired pay to cover additional costs of retired military personnel due to changes in three cost-of-living increases as measured by the Consumer Price Index; the military pay raise on October 1, 1977; and the net effect of strength and rate changes which have occurred since the initial appropriation was approved.

The House reduced the request by $60 million based on actual experience since preparation of the supplemental estimate. The Committee concurs with the House allowance, and recommends an appropriation of $169,600,000 for this account.

CURRENCY REVALUATION

1978 appropriations to date	$307, 292, 000
1978 supplemental estimate	215, 000, 000
House allowance	[1] 130, 000, 000
Committee recommendation	

[1] And in addition, $100,000,000 to be derived by transfer from other accounts.

The Committee recommends a supplemental appropriation of $130,000,000 to provide for the increased cost of operation and maintenance in fiscal year 1978 caused by the depreciation of the dollar relative to other currencies.

The recommended appropriation plus $100,000,000 to be derived by transfer from other accounts will provide a total program of $230,000,000. The recommended appropriation is a reduction of $177,292,000 below the supplemental request and a decrease of $85,000,000 from the House allowance.

In the initial supplemental request, submitted in January 1978, the Department of Defense requested $187,028,000 to cover the costs incurred in the operation and maintenance appropriations for dollar depreciation that occurred prior to December 1977. The request was changed to $307,292,000 in the May 1978 amendment, to cover the additional costs incurred for December 1977 through February 1978. In addition, increased costs of $37,779,000 in military personnel and $120,000 in procurement appropriations were identified as being absorbed. The following table summarizes the amended DOD supplemental request for the currency revaluation; also shown are the House allowance and the Committee recommendation:

FISCAL YEAR 1978 CURRENCY REVALUATION COSTS

[In thousands of dollars]

Appropriation account	Amended supplemental request	House allowance	Committee recommendation	Committee recommendation compared to House bill
Operation and maintenance:				
Army	219, 113	[1] 120, 000	[2] 20, 000	−100, 000
Navy	28, 180	30, 000	38, 500	+8, 500
Marine Corps	9, 621	10, 000	16, 500	+6, 500
Air Force	36, 851	40, 000	40, 000	
Defense agencies	13, 527	15, 000	15, 000	
Total	307, 292	215, 000	130, 000	−85, 000

[1] Assumes reprograming of $110,400 from Procurement of Ammunition, Army appropriation.
[2] Assumes transfer of $100,000 from "Secretary of Defense Readiness Fund, 1978."

The amount approved by the House for Operation and Maintenance, Army, reflects the transfer of $110,400,000 to that appropriation from the Procurement of Ammunition, Army, Appropriation (Reprograming request 78–40 P/A) as a partial offset to the supplemental requirement. This reprograming was approved by the House Committee on Appropriations on June 29, 1978, and the Committee concurs in that action.

The House also added $18,108,000 to the DOD request to cover additional costs incurred subsequent to the cut-off date for the amended supplemental request, since the dollar has declined in value

even further since February 1978. The Committee recommends that, in addition, $8,500,000 and $6,500,000 be provided to the Navy and Marine Corps, respectively, to cover the estimated dollar revaluation impact to date, based on DOD's most recent evaluation of the currency exchange rate situation.

Finally, the Committee is concerned about the possible degradation in the readiness of our military forces, particularly the Army forces in Europe, as a result of the decline in the value of the dollar overseas. Accordingly, the Committee recommends the transfer of $100,000,000 to the Operation and Maintenance Appropriation from the Secretary of Defense Readiness Fund as an offset to the dollar revaluation costs. The use of the Readiness Fund for this purpose would be timely, effective, and in keeping with the intent of Congress in appropriating these funds in the fiscal year 1978 Defense Appropriations Act.

Foreign National Indirect Hire Pay Increases

1978 appropriations to date	$1, 020, 928, 000
1978 supplemental estimate	120, 072, 000
House allowance	107, 930, 000
Committee recommendation	107, 930, 000

The Committee recommends a supplemental appropriation of $107,930,000 to cover the contract cost of foreign national indirect hire employee pay increases. This is the same as the House allowance and $12,142,000 below the budget request.

The Department of Defense acquires local national employees in several foreign countries (namely, Germany, Japan, Spain, United Kingdom, Belgium, Netherlands, and Greece) through indirect hire agreements or master labor contracts by which foreign government agencies act as intermediaries in the hiring and administration of the local national workforce. Over the past few years, the average employee costs of these contracts have often increased at a rate more rapid than the general rate of inflation experienced in the United States or foreign economies.

Along with other cost considerations, the dramatic increase in DOD's foreign labor costs has prompted efforts to explore cost-sharing arrangements with some foreign governments. One such arrangement was agreed to with Japan in December 1977, whereby the Japanese Government will assume part of the cost of administering the master labor contract in that country, effective April 1, 1978. DOD estimates that about one-half of the $26 million annual savings involved in the cost-sharing agreement will be realized in fiscal year 1978. The House reduction of $12,142,000 was based on this assumption, and the Committee concurs in the House action.

Weapons Procurement, Navy

1978 appropriations to date	$2, 181, 900, 000
1978 supplemental estimate	58, 700, 000
House allowance	58, 700, 000
Committee recommendation	58, 700, 000

The Committee recommends an additional appropriation of $58,-700,000, the same as the supplemental budget request and the House allowance.

The recommended appropriation provides funds for the procurement of Fleet Satellite Communications (FLTSATCOM) spacecraft 4 and 5. These craft are required to insure no gap exists in a continuous on-orbit operational satellite communications system for the fleet.

This system satisfies the Navy's worldwide ultrahigh frequency mobile user communications requirements, to include protected fleet broadcast service to all Navy ships plus a vital command control service to all submarine warfare platforms, fleet ballistic missile submarines, aircraft carriers, and cruisers and selected aircraft, ships and submarines.

TITLE II—INCREASED PAY COSTS

MILITARY PERSONNEL PAY INCREASES

1978 appropriations to date	$26,055,837,000
1978 supplemental estimate	1,216,562,000
House allowance	1,143,387,000
Committee recommendation	1,170,387,000

The Committee recommends additional budget authority of $1,170,387,000 to fund the costs of military pay raises now in effect. This amount is $27,000,000 more than the House allowance, but $46,175,000 less than the budget estimate.

With respect to the following accounts, the Committee concurs with the amounts recommended by the House for the October 1, 1977, pay raise: Military Personnel, Marine Corps, $99,264,000; Military Personnel, Air Force, $363,890,000; Reserve Personnel, Marine Corps, $3,724,000; Reserve Personnel, Air Force, $7,400,000; National Guard Personnel, Air Force, $7,800,000.

The House reduced the funding available for the Active Army pay raise by $7 million. In testimony before the Committee the Army indicated that over $154 million in pay raises, currency revaluation, and food price increases has been absorbed in the Military Personnel, Army appropriation during fiscal year 1978. The Army has informed the Committee, however, that the original estimate for absorption of the pay raise was overly optimistic. Current actual expenditures reflect significant financial increases related to unforeseen cost and rate increases. At this late date in the fiscal year, it is questionable whether the Army can absorb these cost increases without undertaking undesirable personnel actions or seeking expedited action on a reprograming request. To avoid either of these alternatives, the Committee recommends a supplemental appropriation of $411,633,000 for Military Personnel, Army. This is $10 million over the budget request and $27 million over the House allowance. In appropriating funds over the budget request, the Committee assumes that if the Army should have more than enough funds in this account, the balance will be restored to the Treasury and not applied to other programs.

In the case of the Reserve Personnel, Navy account, the Committee agrees with the House that the supplemental request is understated by $8.7 million. However, it appears that the supplemental appropriation will not be available for obligation before funds in this account are exhausted in early August. Therefore, the Department has submitted a reprograming request to transfer the $8.7 million from the

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even further since February 1978. The Committee recommends that, in addition, $8,500,000 and $6,500,000 be provided to the Navy and Marine Corps, respectively, to cover the estimated dollar revaluation impact to date, based on DOD's most recent evaluation of the currency exchange rate situation.

Finally, the Committee is concerned about the possible degradation in the readiness of our military forces, particularly the Army forces in Europe, as a result of the decline in the value of the dollar overseas. Accordingly, the Committee recommends the transfer of $100,000,000 to the Operation and Maintenance Appropriation from the Secretary of Defense Readiness Fund as an offset to the dollar revaluation costs. The use of the Readiness Fund for this purpose would be timely, effective, and in keeping with the intent of Congress in appropriating these funds in the fiscal year 1978 Defense Appropriations Act.

Foreign National Indirect Hire Pay Increases

1978 appropriations to date	$1, 020, 928, 000
1978 supplemental estimate	120, 072, 000
House allowance	107, 930, 000
Committee recommendation	107, 930, 000

The Committee recommends a supplemental appropriation of $107,930,000 to cover the contract cost of foreign national indirect hire employee pay increases. This is the same as the House allowance and $12,142,000 below the budget request.

The Department of Defense acquires local national employees in several foreign countries (namely, Germany, Japan, Spain, United Kingdom, Belgium, Netherlands, and Greece) through indirect hire agreements or master labor contracts by which foreign government agencies act as intermediaries in the hiring and administration of the local national workforce. Over the past few years, the average employee costs of these contracts have often increased at a rate more rapid than the general rate of inflation experienced in the United States or foreign economies.

Along with other cost considerations, the dramatic increase in DOD's foreign labor costs has prompted efforts to explore cost-sharing arrangements with some foreign governments. One such arrangement was agreed to with Japan in December 1977, whereby the Japanese Government will assume part of the cost of administering the master labor contract in that country, effective April 1, 1978. DOD estimates that about one-half of the $26 million annual savings involved in the cost-sharing agreement will be realized in fiscal year 1978. The House reduction of $12,142,000 was based on this assumption, and the Committee concurs in the House action.

Weapons Procurement, Navy

1978 appropriations to date	$2, 181, 900, 000
1978 supplemental estimate	58, 700, 000
House allowance	58, 700, 000
Committee recommendation	58, 700, 000

The Committee recommends an additional appropriation of $58,700,000, the same as the supplemental budget request and the House allowance.

The recommended appropriation provides funds for the procurement of Fleet Satellite Communications (FLTSATCOM) spacecraft 4 and 5. These craft are required to insure no gap exists in a continuous on-orbit operational satellite communications system for the fleet.

This system satisfies the Navy's worldwide ultrahigh frequency mobile user communications requirements, to include protected fleet broadcast service to all Navy ships plus a vital command control service to all submarine warfare platforms, fleet ballistic missile submarines, aircraft carriers, and cruisers and selected aircraft, ships and submarines.

TITLE II—INCREASED PAY COSTS

MILITARY PERSONNEL PAY INCREASES

1978 appropriations to date	$26,055,837,000
1978 supplemental estimate	1,216,562,000
House allowance	1,143,387,000
Committee recommendation	1,170,387,000

The Committee recommends additional budget authority of $1,170,387,000 to fund the costs of military pay raises now in effect. This amount is $27,000,000 more than the House allowance, but $46,175,000 less than the budget estimate.

With respect to the following accounts, the Committee concurs with the amounts recommended by the House for the October 1, 1977, pay raise: Military Personnel, Marine Corps, $99,264,000; Military Personnel, Air Force, $363,890,000; Reserve Personnel, Marine Corps, $3,724,000; Reserve Personnel, Air Force, $7,400,000; National Guard Personnel, Air Force, $7,800,000.

The House reduced the funding available for the Active Army pay raise by $7 million. In testimony before the Committee the Army indicated that over $154 million in pay raises, currency revaluation, and food price increases has been absorbed in the Military Personnel, Army appropriation during fiscal year 1978. The Army has informed the Committee, however, that the original estimate for absorption of the pay raise was overly optimistic. Current actual expenditures reflect significant financial increases related to unforeseen cost and rate increases. At this late date in the fiscal year, it is questionable whether the Army can absorb these cost increases without undertaking undesirable personnel actions or seeking expedited action on a reprograming request. To avoid either of these alternatives, the Committee recommends a supplemental appropriation of $411,633,000 for Military Personnel, Army. This is $10 million over the budget request and $27 million over the House allowance. In appropriating funds over the budget request, the Committee assumes that if the Army should have more than enough funds in this account, the balance will be restored to the Treasury and not applied to other programs.

In the case of the Reserve Personnel, Navy account, the Committee agrees with the House that the supplemental request is understated by $8.7 million. However, it appears that the supplemental appropriation will not be available for obligation before funds in this account are exhausted in early August. Therefore, the Department has submitted a reprograming request to transfer the $8.7 million from the

Military Personnel, Navy account to the Reserve Personnel, Navy account to insure that sufficient funds remain available to finance the activities in the Reserve Personnel, Navy account. Since the $8.7 million added by the House to the Reserve Personnel, Navy request is no longer required, the Committee has deleted the funds from the bill and increased the Military Personnel, Navy request by $8.7 million. The Committee recommends an appropriation of $266,551,000 for Military Personnel, Navy and $10,625,000 for Reserve Personnel, Navy.

During the Committee's review of the fiscal year 1979 National Guard Personnel, Army request, it became apparent that the Army National Guard intended to prefinance fiscal year 1979 clothing requirements with excess fiscal year 1978 funds. The Committee strongly objects to this practice. Excess funds in the current fiscal year military personnel accounts should be applied as an offset to the supplemental pay raise, not as an offset to the next fiscal year's requirements. The Committee notes that the funds proposed by the Army National Guard for transfer from the National Guard Personnel, Army account to the Military Personnel, Army account in the House bill include that portion of the fiscal year 1978 National Guard Personnel, Army appropriation originally intended to finance fiscal year 1979 clothing requirements.

The following table summarizes the Committee's recommendations on the military pay raise request with respect to the supplemental request and the House action.

MILITARY PERSONNEL PAY INCREASES

	Supplemental request	House allowance	Committee recommendation	Committee recommendation compared to House bill
Military Personnel:				
Army	$401,633,000	$384,133,000	$411,133,000	+$27,000,000
Navy	284,550,000	257,851,000	266,551,000	+8,700,000
Marine Corps	101,964,000	99,264,000	99,264,000	
Air Force	395,890,000	363,890,000	363,890,000	
Reserve Personnel:				
Navy	10,625,000	19,325,000	10,625,000	−8,700,000
Marine Corps	2,800,000	3,724,000	3,724,000	
Air Force	7,400,000	7,400,000	7,400,000	
National Guard Personnel, Air Force	11,700,000	7,800,000	7,800,000	
Total	1,216,562,000	1,143,387,000	1,170,387,000	+27,000,000

Civilian Personnel Pay Increases

1978 appropriations to date	$16,414,344,000
1978 supplemental estimate	933,900,000
House allowance	881,540,000
Committee recommendation	881,540,000

The Committee recommends a supplemental appropriation of $881,540,000 to provide for civilian pay raises funded in the operation and maintenance appropriation. This is the same as the House allowance and a reduction of $52,360,000 from the budget request.

The House made several adjustments to the Department's estimate. The major adjustment was the application to the pay requirement of $43,595,000 that DOD had proposed to reprogram into the operation and maintenance accounts for other purposes. The House approved the reprograming, or transfer, of the funds from other appropriations, but directed that they be used as an offset to the pay raise requirement. There are five separate reprograming requests involved, numbered 13, 17, 21, 27, and 33 by DOD. The Committee concurs in the action of the House.

The remainder of the House adjustment, $8,765,000, is comprised of several reductions to operation and maintenance accounts, as follows: (1) $2,250,000 from the Navy to account for improved application of civilian grade standards, and an error in the budget estimate; (2) $3,400,000 from Defense agencies for civilian strength adjustments and other anticipated savings; (3) $2 million and $1 million from the Army National Guard and Army Reserve, respectively, as a result of strength shortfalls; and (3) $115,000 from the Court of Military Appeals based on a strength shortfall. The Committee also concurs in these reductions.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION PAY INCREASE

The Committee agrees with the House language granting the Department the same flexibility granted in previous years for purposes of funding the pay raise of civilian personnel paid out of the R.D.T. & E. appropriations. The Department is to absorb these pay increase costs within the R.D.T. & E. program where possible, but may reprogram as required to meet the costs of the total pay raise.

Other Independent Agencies

INTELLIGENCE COMMUNITY OVERSIGHT

1978 appropriations to date	$8,950,000
1978 supplemental budget request	299,000
House allowance	299,000
Committee recommendation	299,000

The Committee recommends an additional appropriation of $299,000, the same as the supplemental estimate and the House allowance

The recommended appropriation provides funds for Intelligence Community Staff enacted pay raises in title II.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

Requesthd in H. Doc. 95-281 as amended by [1]	Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −)	
					Budget estimate	House bill
	CHAPTER XI					
	MILITARY PERSONNEL					
	Military personnel, Army	$13,300,000	$17,800,000	$17,800,000	+$4,500,000	
	Military personnel, Navy	10,900,000	16,900,000	16,900,000	+6,000,000	
	Military personnel, Marine Corps	2,836,000	4,536,000	4,536,000	+1,700,000	
	Military personnel, Air Force	5,300,000	9,300,000	9,300,000	+4,000,000	
	Total, Military Personnel	32,336,000	48,536,000	48,536,000	+16,200,000	
	RETIRED MILITARY PERSONNEL					
	Retired pay, Defense	229,600,000	169,600,000	169,600,000	−60,000,000	
	OPERATION AND MAINTENANCE					
95-331	Operation and maintenance, Army	271,872,000	169,487,000	69,487,000	−202,385,000	−$100,000,000
	Transfer from other accounts			(100,000,000)	(+100,000,000)	(+100,000,000)
95-331	Operation and maintenance, Navy	59,580,000	57,900,000	66,400,000	+6,820,000	+8,500,000
95-331	Operation and maintenance, Marine Corps	17,989,000	16,298,000	22,798,000	+4,809,000	+6,500,000
95-331	Operation and maintenance, Air Force	61,951,000	61,800,000	61,800,000	−151,000	
95-331	Operation and maintenance, defense agencies	15,972,000	17,445,000	17,445,000	+1,473,000	
	Total, Operation and Maintenance: New budget (obligational) authority	427,364,000	322,930,000	237,930,000	−189,434,000	−85,000,000
	Transfer from other accounts			(100,000,000)	(+100,000,000)	(+100,000,000)
	PROCUREMENT					
	Weapons procurement, Navy	58,700,000	58,700,000	58,700,000		
	Total, chapter XI: New budget (obligational) authority	748,000,000	599,766,000	514,766,000	−233,234,000	−85,000,000
	Transfer from other accounts			(100,000,000)	(+100,000,000)	(+100,000,000)

BUDGETARY IMPACT OF H.R. 13467 [1]

[Dollars in millions]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
I. Comparison of amounts in the bill with the amount remaining in the committee's allocation from the Second Concurrent Resolution for fiscal year 1978: Fiscal year 1978 Supplemental Appropriations bill	12, 382	6, 638	12, 954	[2] 5, 449
II. Summary of functional category of 1978 budget amounts recommended in the bill:				
050—National Defense		2, 567		2, 412
150—International Affairs		144		[2] 104
250—General Science, Space, and Technology		562		464
300—Natural Resources, Environment and Energy		22		[2] 1
350—Agriculture		234		[3] 161
400—Commerce and Transportation		575		34
450—Community and Regional Development		273		134
500—Education, Training, Employment, and Social Services		13		[2] 5
550—Health		26		6
600—Income Security		505		457
700—Veterans Benefits and Services		32		17
750—Law Enforcement and Justice		516		455
800—General Government		1		1
850—Revenue Sharing and General Purpose Fiscal Assistance		1, 167		1, 197
900—Interest		365		143
920—Allowances				[3 4] 5, 357
III. Financial assistance to State and local governments for 1978 in the bill				600
IV. Projections of outlays associated with budget authority recommended in the bill:				521
1978				67
1979				92
1980				
1981				
1982				
Future year				

[1] Prepared by the Congressional Budget Office pursuant to section 308a, Public Law 93-344.
[2] Includes outlays from prior year budget authority.
[3] Excludes outlays from prior year budget authority.
[4] Excludes $91,000,000 in outlays associated with limitations on administrative expenses.

TITLE II

INCREASED PAY COSTS, FISCAL YEAR 1978

Title II provides amounts to meet increased pay costs for fiscal year 1978. The estimates are included in House Documents 95–281 and 95–331 and S. Doc. 95–110. The following table summarizes recommendations of the Committee for pay cost increases in the bill:

	Estimates	Recommended in the bill	Differences
New budget (obligational) authority	3, 289, 680, 436	3, 218, 507, 136	−71, 173, 300
By transfer	(49, 305, 677)	(4, 951, 331)	(−44, 354, 346)
Increase in limitations	(125, 530, 000)	(118, 501, 000)	(−7, 029, 000)
Trust fund transfer	(45, 000)		(−45, 000)
Transfer from Commodity Credit Corporation	(1, 036, 000)	(1, 036, 000)	
By transfer, FHA funds	(10, 929, 000)	(16, 929, 000)	(+6, 000, 000)

Title II includes $3,218,507,136 in budget authority for fiscal 1978. Government agencies and departments absorbed nearly 20 percent of pay and related costs for fiscal 1978. The Appropriations Committee has recommended reductions of $71,173,300 under the budget requests.

The increases provided in Title II were ordered pursuant to law, as follows:

> Civilian and military pay raises were effective in October 1977 under Executive Order No. 12010 and comparable raises were granted by administrative action. Executive Order No. 12010 was issued pursuant to public laws. Public Law 91–656 provides for adjusting the salary scale of civilian statutory pay systems to rates comparable to those paid for similar work in private industry. Public Law 90–207 provides that whenever the rates of the General Schedule are raised, there must be a comparable increase in the basic pay of the uniformed services.
>
> Actual wageboard pay increases effective in fiscal year 1978 and granted under 5 U.S.C. 5341, together with additional raises to be granted under the same authority through September 30, 1978.

The total estimated cost of these pay raises is $4.1 billion in fiscal 1978. These amounts include related costs such as Government retirement and life insurance contributions and the Government's share of employment taxes in the amount of $294.5 million.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

TITLE II—INCREASED PAY COSTS

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
TITLE II					
INCREASED PAY COSTS					
LEGISLATIVE BRANCH					
HOUSE OF REPRESENTATIVES					
House Leadership Offices					
Office of the Speaker	24,900	24,900	24,900	---	---
Office of the Majority Floor Leader	15,000	15,000	15,000	---	---
Office of the Minority Floor Leader	15,000	15,000	15,000	---	---
Office of the Majority Whip	17,800	17,800	17,800	---	---
Office of the Minority Whip	17,800	17,800	17,800	---	---
Total, House leadership offices	90,500	90,500	90,500	---	---
Salaries, Officers and Employees					
Office of the Clerk	212,600	212,600	212,600	---	---
Office of the Sergeant at Arms	700,000	700,000	700,000	---	---
Office of the Doorkeeper	272,700	272,700	272,700	---	---
Office of the Postmaster	60,500	60,500	60,500	---	---
Office of the Chaplain	1,600	1,600	1,600	---	---
Office of the Parliamentarian	5,800	5,800	5,800	---	---

Compilation of precedents of the House of Representatives	6,400	6,400	6,400	---	---
Official reporters of debates	37,900	37,900	37,900	---	---
Official reporters to committees	43,700	43,700	43,700	---	---
Two printing clerks for majority and minority	2,200	2,200	2,200	---	---
Technical assistant, Office of the Attending Physician	2,000	2,000	2,000	---	---
House Democratic Steering Committee	26,900	26,900	26,900	---	---
House Democratic Caucus	10,300	10,300	10,300	---	---
House Republican Conference	37,200	37,200	37,200	---	---
Total, salaries, officers and employees	1,419,800	1,419,800	1,419,800	---	---
Committee on Appropriations (Studies and Investigations)					
Salaries and expenses	8,000	8,000	8,000	---	---
Office of the Law Revision Counsel					
Salaries and expenses	15,200	15,200	15,200	---	---
Office of the Legislative Counsel					
Salaries and expenses	69,000	69,000	69,000	---	---
Members' Clerk Hire					
Salaries and expenses	5,456,300	5,456,300	5,456,300	---	---
Contingent Expenses of the House					
Allowances and Expenses					
Salaries authorized by House resolutions	43,900	43,900	43,900	---	---
Government contributions	766,700	766,700	766,700	---	---
Miscellaneous items	4,200	4,200	4,200	---	---
Total, allowances and expenses	814,800	814,800	814,800	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
Special and Select Committees					
Salaries and expenses	2,362,600	2,362,600	2,362,600	---	---
Total, Contingent expenses of the House	3,177,400	3,177,400	3,177,400	---	---
Total, House of Representatives	10,236,200	10,236,200	10,236,200	---	---
JOINT ITEMS					
Joint Economic Committee	102,900	102,900	102,900	---	---
Joint Committee on Printing	36,000	36,000	36,000	---	---
Joint Committee on Taxation	114,300	114,300	114,300	---	---
Capitol Guide Service	30,300	30,300	30,300	---	---
Total, Joint items	283,500	283,500	283,500	---	---
OFFICE OF TECHNOLOGY ASSESSMENT					
Salaries and expenses	281,000	281,000	281,000	---	---

ARCHITECT OF THE CAPITOL					
Office of the Architect of the Capitol: Salaries	126,700	126,700	126,700	---	---
Capitol buildings	297,300	297,300	297,300	---	---
Capitol grounds	100,900	100,900	100,900	---	---
Senate office buildings	484,600	---	484,600	---	+484,600
Senate garage	8,400	---	8,400	---	+8,400
House office buildings	705,500	705,500	705,500	---	---
Capitol Power Plant	136,600	136,600	136,600	---	---
Library buildings and grounds: Structural and mechanical care	134,000	134,000	134,000	---	---
Total, Architect of the Capitol	1,994,000	1,501,000	1,994,000	---	+493,000
BOTANIC GARDEN					
Salaries and expenses	88,300	88,300	88,300	---	---
LIBRARY OF CONGRESS					
Salaries and expenses	3,856,000	3,856,000	3,856,000	---	---
Copyright Office: Salaries and expenses	615,000	615,000	615,000	---	---
Congressional Research Service: Salaries and expenses	1,196,000	1,196,000	1,196,000	---	---
Books for the blind and physically handicapped: Salaries and expenses	133,000	133,000	133,000	---	---
Total, Library of Congress	5,800,000	5,800,000	5,800,000	---	---
COPYRIGHT ROYALTY TRIBUNAL					
Salaries and expenses	16,500	---	---	-16,500	---
GENERAL ACCOUNTING OFFICE					
Salaries and expenses	8,980,000	8,680,000	8,680,000	-300,000	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or —): Budget estimates	Senate committee recommendation compared with (+ or —): House bill
GOVERNMENT PRINTING OFFICE					
Office of Superintendent of Documents: Salaries and expenses	294,136	294,136	294,136	---	---
Total, Legislative Branch	27,973,636	27,164,136	27,657,136	-316,500	+493,000
THE JUDICIARY					
SUPREME COURT OF THE UNITED STATES					
Salaries and expenses	383,000	300,000	300,000	-83,000	---
Care of the buildings and grounds	53,800	38,000	38,000	-15,800	---
Total, Supreme Court of the United States	436,800	338,000	338,000	-98,800	---
COURT OF CUSTOMS AND PATENT APPEALS					
Salaries and expenses	46,000	46,000	46,000	---	---
CUSTOMS COURT					
Salaries and expenses	156,000	78,000	78,000	-78,000	---

COURT OF CLAIMS					
Salaries and expenses	101,000	---	---	-101,000	---
COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES					
Salaries of supporting personnel	10,251,000	4,000,000	4,000,000	-6,251,000	---
(By transfer)	---	(4,500,000)	(4,500,000)	(+4,500,000)	---
Defender services	445,000	---	---	-445,000	---
Salaries and expenses of magistrates	370,000	---	---	-370,000	---
Salaries and expenses of referees	1,135,000	500,000	500,000	-635,000	---
Total, Courts of Appeals, District Courts, and other Judicial Services	12,201,000	4,500,000	4,500,000	-7,701,000	---
ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS					
Salaries and expenses	575,000	575,000	575,000	---	---
FEDERAL JUDICIAL CENTER					
Salaries and expenses	144,000	144,000	144,000	---	---
Total, The Judiciary	13,659,800	5,681,000	5,681,000	-7,978,800	---
(By transfer)	---	(4,500,000)	(4,500,000)	(+4,500,000)	---
EXECUTIVE OFFICE OF THE PRESIDENT					
Executive Residence:					
Operating expenses	79,000	79,000	79,000	---	---
Council of Economic Advisers:					
Salaries and expenses	23,000	23,000	23,000	---	---
National Security Council:					
Salaries and expenses	155,000	155,000	155,000	---	---
Office of Administration:					
Salaries and expenses	174,000	174,000	174,000	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
Office of Management and Budget:					
Salaries and expenses	857,000	857,000	857,000	---	---
Office of Federal Procurement Policy:					
Salaries and expenses	50,000	50,000	50,000	---	---
Total, Office of Management and Budget	907,000	907,000	907,000	---	---
Office of the Special Representative for Trade Negotiations:					
Salaries and expenses	71,000	71,000	71,000	---	---
Total, Executive Office of the President	1,409,000	1,409,000	1,409,000	---	---
FUNDS APPROPRIATED TO THE PRESIDENT					
Operating expenses of the Agency for International Development	[1](6,352,000)	---	---	[1](-6,352,000)	---
DEPARTMENT OF AGRICULTURE					
Departmental administration	766,000	766,000	766,000	---	---
Office of the Secretary	188,000	188,000	188,000	---	---
Office of the Inspector General	957,000	957,000	957,000	---	---
(By transfer)	(388,000)	(388,000)	(388,000)	---	---
Office of the General Counsel	580,000	580,000	580,000	---	---
Agricultural Research Service	13,479,000	13,479,000	13,479,000	---	---

[1]Withdrawn by the President on June 15, 1978, S. Doc. 95-110.

Animal and Plant Health Inspection Service.....	6,906,000	6,906,000	6,906,000	---	---
Extension Service.....	341,000	341,000	341,000	---	---
National Agricultural Library.....	236,000	236,000	236,000	---	---
Economic Management Support Center.....	165,000	165,000	165,000	---	---
Statistical Reporting Service.....	1,859,000	1,859,000	1,859,000	---	---
Economic Research Service.....	1,627,000	1,627,000	1,627,000	---	---
Farmer Cooperative Service.....	215,000	215,000	215,000	---	---
Foreign Agricultural Service.....	1,141,000	1,141,000	1,141,000	---	---
Agricultural Stabilization and Conservation Service:					
Salaries and expenses.....	9,445,000	9,445,000	9,445,000	---	---
(Transfer from Commodity Credit Corporation).....	(1,036,000)	(1,036,000)	(1,036,000)	---	---
Federal Crop Insurance Corporation:					
Limitation on administrative and operating expenses:					
(Increase in limitation).....	(1,005,000)	(1,005,000)	(1,005,000)	---	---
Rural Development Service.....	75,000	75,000	75,000	---	---
Rural Electrification Administration:					
Salaries and expenses.....	1,247,000	1,247,000	1,247,000	---	---
Farmers Home Administration:					
Salaries and expenses.....	9,549,000	9,549,000	9,549,000	---	---
Soil Conservation Service:					
Conservation operations.....	13,600,000	13,600,000	13,600,000	---	---
River basin surveys and investigations.....	966,000	966,000	966,000	---	---
Watershed planning.....	740,000	740,000	740,000	---	---
Watershed and flood prevention operations.....	2,832,000	2,832,000	2,832,000	---	---
Great plains conservation program.....	369,000	369,000	369,000	---	---
Resource conservation and development.....	946,000	946,000	946,000	---	---
Total, Soil Conservation Service.....	19,453,000	19,453,000	19,453,000	---	---
Agricultural Marketing Service:					
Marketing services.....	1,799,000	1,799,000	1,799,000	---	---
Packers and Stockyards Administration.....	346,000	346,000	346,000	---	---
Food Safety and Quality Service:					
Salaries and expenses.....	14,000,000	14,000,000	14,000,000	---	---
Funds for strengthening markets, income, and supply (Section 32) (Increase in limitation)....	(235,000)	(235,000)	(235,000)	---	---
Food and Nutrition Service:					
Food program administration.....	3,317,000	3,317,000	3,317,000	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
Forest Service:					
Forest protection and utilization	25,882,000	25,882,000	25,882,000	---	---
Construction and land acquisition	463,000	463,000	463,000	---	---
Forest roads and trails	11,391,000	11,391,000	11,391,000	---	---
Assistance to States for tree improvement	22,000	22,000	22,000	---	---
Total, Forest Service	37,758,000	37,758,000	37,758,000	---	---
Total, Department of Agriculture	125,449,000	125,449,000	125,449,000	---	---
(By transfer)	(388,000)	(388,000)	(388,000)	---	---
(Increase in limitations)	(1,240,000)	(1,240,000)	(1,240,000)	---	---
(Transfer from Commodity Credit Corporation)	(1,036,000)	(1,036,000)	(1,036,000)	---	---
DEPARTMENT OF COMMERCE					
GENERAL ADMINISTRATION					
Salaries and expenses	1,500,000	1,500,000	1,500,000	---	---
BUREAU OF THE CENSUS					
Salaries and expenses	2,450,000	2,450,000	2,450,000	---	---
Periodic censuses and programs	3,150,000	2,950,000	2,950,000	-200,000	---
Total, Bureau of the Census	5,600,000	5,400,000	5,400,000	-200,000	---

ECONOMIC AND STATISTICAL ANALYSIS					
Salaries and expenses	804,000	804,000	804,000	---	---
ECONOMIC DEVELOPMENT ADMINISTRATION					
Administration of economic development assistance programs	1,420,000	1,420,000	1,420,000	---	---
REGIONAL ACTION PLANNING COMMISSIONS					
Regional development program	209,000	150,000	150,000	-59,000	---
INDUSTRY AND TRADE ADMINISTRATION					
Operations and administration	3,275,000	3,275,000	3,275,000	---	---
MINORITY BUSINESS ENTERPRISE					
Minority business development	425,000	400,000	400,000	-25,000	---
UNITED STATES TRAVEL SERVICE					
Salaries and expenses	224,000	224,000	224,000	---	---
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION					
Operations, research, and facilities	19,740,000	19,600,000	19,600,000	-140,000	---
Coastal zone management	144,000	70,000	70,000	-74,000	---
Total, National Oceanic and Atmospheric Administration	19,884,000	19,670,000	19,670,000	-214,000	---
NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION					
Operations, research, and administration	349,000	349,000	349,000	---	---
PATENT AND TRADEMARK OFFICE					
Salaries and expenses	4,860,000	4,860,000	4,860,000	---	---

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COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or —): Budget estimates	Senate committee recommendation compared with (+ or —): House bill
SCIENCE AND TECHNICAL RESEARCH					
Scientific and technical research and services	3,683,000	3,650,000	3,650,000	-33,000	---
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION					
Salaries and expenses	373,000	360,000	360,000	-13,000	---
MARITIME ADMINISTRATION					
Operations and training	2,050,000	2,050,000	2,050,000	---	---
Total, Department of Commerce	44,656,000	44,112,000	44,112,000	-544,000	---
DEPARTMENT OF DEFENSE--MILITARY					
MILITARY PERSONNEL					
Military personnel, Army	401,633,000	384,133,000	411,133,000	+9,500,000	+27,000,000
Military personnel, Navy	284,550,000	257,851,000	266,551,000	-17,999,000	+8,700,000
Military personnel, Marine Corps	101,964,000	99,264,000	99,264,000	-2,700,000	---
Military personnel, Air Force	395,890,000	363,890,000	363,890,000	-32,000,000	---
Reserve personnel, Navy	10,625,000	19,325,000	10,265,000	-360,000	-9,060,000
Reserve personnel, Marine Corps	2,800,000	3,724,000	3,724,000	+924,000	---

Reserve personnel, Air Force	7,400,000	7,400,000	7,400,000	---	---
National Guard personnel, Air Force	11,700,000	7,800,000	7,800,000	-3,900,000	---
Total, Military personnel	1,216,562,000	1,143,387,000	1,170,027,000	-46,535,000	+26,640,000
OPERATION AND MAINTENANCE					
Operation and maintenance, Army	275,100,000	266,100,000	266,100,000	-9,000,000	---
Operation and maintenance, Navy	256,600,000	250,050,000	250,050,000	-6,550,000	---
Operation and maintenance, Marine Corps	15,900,000	15,900,000	15,900,000	---	---
Operation and maintenance, Air Force	177,600,000	147,305,000	147,305,000	-30,295,000	---
Operation and maintenance, Defense agencies	129,000,000	125,600,000	125,600,000	-3,400,000	---
Operation and maintenance, Army Reserve	13,300,000	12,300,000	12,300,000	-1,000,000	---
Operation and maintenance, Navy Reserve	3,000,000	3,000,000	3,000,000	---	---
Operation and maintenance, Marine Corps Reserve	85,000	85,000	85,000	---	---
Operation and maintenance, Air Force Reserve	10,500,000	10,500,000	10,500,000	---	---
Operation and maintenance, Army National Guard	28,800,000	26,800,000	26,800,000	-2,000,000	---
Operation and maintenance, Air National Guard	23,900,000	23,900,000	23,900,000	---	---
Court of Military Appeals, Defense	115,000	---	---	-115,000	---
Total, Operation and maintenance	933,900,000	881,540,000	881,540,000	-52,360,000	---
FAMILY HOUSING					
Family housing, Defense	(7,953,000)	---	---	(-7,953,000)	---
CIVIL DEFENSE					
Operation and maintenance, Defense Civil Preparedness Agency	1,300,000	1,300,000	1,300,000	---	---
Research, shelter survey, and marking	300,000	300,000	300,000	---	---
Total, Civil Defense	1,600,000	1,600,000	1,600,000	---	---
Total, Department of Defense--Military	2,152,062,000	2,026,527,000	2,053,167,000	-98,895,000	+26,640,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
DEPARTMENT OF DEFENSE--CIVIL					
CORPS OF ENGINEERS--CIVIL					
General investigations	---	3,300,000	3,300,000	+3,300,000	---
(By transfer)	(3,300,000)	---	---	(-3,300,000)	---
Construction, general	---	12,000,000	12,000,000	+12,000,000	---
General expenses	---	3,200,000	3,200,000	+3,200,000	---
(By transfer)	(3,200,000)	---	---	(-3,200,000)	---
Operation and maintenance, general	---	23,500,000	23,500,000	+23,500,000	---
(By transfer)	(23,500,000)	---	---	(-23,500,000)	---
Total, Corps of Engineers—Civil	---	42,000,000	42,000,000	+42,000,000	---
(By transfer)	(30,000,000)	---	---	(-30,000,000)	---
SOLDIERS' AND AIRMEN'S HOME					
Operation and maintenance	526,000	526,000	526,000	---	---

THE PANAMA CANAL					
Operating expenses	567,000	567,000	567,000	---	---
Corporation: Panama Canal Company (Increase in limitation)	(625,000)	(500,000)	(500,000)	(-125,000)	---
Total, Department of Defense--Civil	1,093,000	43,093,000	43,093,000	+42,000,000	---
(By transfer)	(30,000,000)	---	---	(-30,000,000)	---
(Increase in limitations)	(625,000)	(500,000)	(500,000)	(-125,000)	---
DEPARTMENT OF ENERGY					
Energy	---	26,000,000	26,000,000	+26,000,000	---
(By transfer)	(12,884,000)	---	---	(-12,884,000)	---
POWER MARKETING ADMINISTRATIONS					
Operation and maintenance, Alaska Power Administration	---	68,000	68,000	+68,000	---
(By transfer)	(68,000)	---	---	(-68,000)	---
Operation and maintenance, Southeastern Power Administration	---	54,000	54,000	+54,000	---
(By transfer)	(54,000)	---	---	(-54,000)	---
Operation and maintenance, Southwestern Power Administration	---	272,000	272,000	+272,000	---
(By transfer)	(272,000)	---	---	(-272,000)	---
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	---	1,438,000	1,438,000	+1,438,000	---
(By transfer)	(1,438,000)	---	---	(-1,438,000)	---
Colorado River Basin Power Marketing Fund, Western Area Power Administration	---	15,000	15,000	+15,000	---
(By transfer)	(15,000)	---	---	(-15,000)	---
Total, Department of Energy	---	27,847,000	27,847,000	+27,847,000	---
(By transfer)	(14,731,000)	---	---	(-14,731,000)	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or —): Budget estimates	Senate committee recommendation compared with (+ or —): House bill
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE					
FOOD AND DRUG ADMINISTRATION					
Salaries and expenses	12,490,000	10,490,000	10,490,000	-2,000,000	---
HEALTH SERVICES ADMINISTRATION					
Health services	9,948,000	8,548,000	8,548,000	-1,400,000	---
Indian health services	10,878,000	10,878,000	10,878,000	---	---
Total, Health Services Administration	20,826,000	19,426,000	19,426,000	-1,400,000	---
CENTER FOR DISEASE CONTROL					
Preventive health services	6,236,000	6,236,000	6,236,000	---	---
NATIONAL INSTITUTES OF HEALTH					
National Cancer Institute	5,836,000	5,252,000	5,252,000	-584,000	---
National Heart, Lung and Blood Institute	2,561,000	2,267,000	2,267,000	-294,000	---
National Institute of Dental Research	830,000	747,000	747,000	-83,000	---
National Institute of Arthritis, Metabolism, and Digestive Diseases	1,992,000	1,792,000	1,792,000	-200,000	---
National Institute of Neurological and Communicative Disorders and Stroke	1,598,000	1,438,000	1,438,000	-160,000	---

National Institute of Allergy and Infectious Diseases.	1,459,000	1,299,000	1,299,000	-160,000	---
National Institute of General Medical Sciences.....	445,000	400,000	400,000	-45,000	---
National Institute of Child Health and Human Development.....	1,254,000	1,129,000	1,129,000	-125,000	---
National Institute of Aging.....	338,000	305,000	305,000	-33,000	---
National Eye Institute.....	455,000	400,000	400,000	-55,000	---
National Institute of Environmental Health Sciences...	712,000	641,000	641,000	-71,000	---
Research resources.....	156,000	148,000	148,000	-8,000	---
John E. Fogarty International Center for Advanced Study in the Health Sciences.....	120,000	114,000	114,000	-6,000	---
National Library of Medicine.....	898,000	873,000	873,000	-25,000	---
Office of the Director.....	1,052,000	1,029,000	1,029,000	-23,000	---
Total, National Institutes of Health.....	19,706,000	17,834,000	17,834,000	-1,872,000	---
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION					
Alcohol, drug abuse, and mental health.....	3,636,000	2,786,000	2,786,000	-850,000	---
Saint Elizabeths Hospital.....	5,738,000	5,738,000	5,738,000	---	---
Total, Alcohol, Drug Abuse, and Mental Health Administration.....	9,374,000	8,524,000	8,524,000	-850,000	---
HEALTH RESOURCES ADMINISTRATION					
Health resources.....	2,402,000	2,102,000	2,102,000	-300,000	---
OFFICE OF ASSISTANT SECRETARY FOR HEALTH					
Salaries and expenses.....	3,012,000	2,700,000	2,700,000	-312,000	---
HEALTH CARE FINANCING ADMINISTRATION					
Quality care management, research, and administration.	2,485,000	2,300,000	2,300,000	-185,000	---
Limitation on administrative expenses (increase in limitation).....	(4,233,000)	(4,000,000)	(4,000,000)	(-233,000)	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or —): Budget estimates	Senate committee recommendation compared with (+ or —): House bill
OFFICE OF EDUCATION					
Indian education	72,000	72,000	72,000	---	---
Salaries and expenses	5,006,000	4,500,000	4,500,000	-506,000	---
Total, Office of Education	5,078,000	4,572,000	4,572,000	-506,000	---
National Institute of Education	600,000	500,000	500,000	-100,000	---
OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION					
Salaries and expenses	470,000	400,000	400,000	-70,000	---
Institute of Museum Services	11,000	10,000	10,000	-1,000	---
Total, Office of the Assistant Secretary for Education	481,000	410,000	410,000	-71,000	---
SOCIAL SECURITY ADMINISTRATION					
Limitation on salaries and expenses (increase in limitation)	(87,859,000)	(83,000,000)	(83,000,000)	(-4,859,000)	---
Assistance payments program	1,212,000	1,000,000	1,000,000	-212,000	---

HUMAN DEVELOPMENT SERVICES					
Human development services	2,603,000	2,103,000	2,103,000	-500,000	---
DEPARTMENTAL MANAGEMENT					
Office of Consumer Affairs	50,000	50,000	50,000	---	---
Office for Civil Rights	1,646,000	1,600,000	1,600,000	-46,000	---
General departmental management	7,024,000	6,300,000	6,300,000	-724,000	---
Office of Inspector General	1,940,000	1,900,000	1,900,000	-40,000	---
Total, Departmental Management	10,660,000	9,850,000	9,850,000	-810,000	---
Total, Department of Health, Education, and Welfare	97,165,000	88,047,000	88,047,000	-9,118,000	---
(Increase in limitations)	(92,092,000)	(87,000,000)	(87,000,000)	(-5,092,000)	---
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
MANAGEMENT AND ADMINISTRATION					
Salaries and expenses, Department of Housing and Urban Development	12,540,000	10,040,000	4,040,000	-8,500,000	-6,000,000
(By transfer, FHA funds)	(10,929,000)	(10,929,000)	(16,929,000)	(+6,000,000)	(+6,000,000)
DEPARTMENT OF THE INTERIOR					
BUREAU OF LAND MANAGEMENT					
Management of lands and resources	7,659,000	7,017,000	7,017,000	-642,000	---
BUREAU OF RECLAMATION					
Construction and rehabilitation	---	3,900,000	3,900,000	+3,900,000	---
Operation and maintenance	---	2,940,000	2,940,000	+2,940,000	---
(By transfer)	(2,940,000)	---	---	(-2,940,000)	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
General administrative expenses	---	1,180,000	1,180,000	+1,180,000	---
(By transfer)	(1,180,000)	---	---	(-1,180,000)	---
Total, Bureau of Reclamation	---	8,020,000	8,020,000	+8,020,000	---
(By transfer)	(4,120,000)	---	---	(-4,120,000)	---
HERITAGE CONSERVATION AND RECREATION					
Salaries and expenses	329,000	329,000	329,000	---	---
Land and water conservation fund (increase in limitation)	(409,000)	(409,000)	(409,000)	---	---
Preservation of historic properties	225,000	213,000	213,000	-12,000	---
UNITED STATES FISH AND WILDLIFE SERVICE					
Resource management	6,696,000	6,220,000	6,220,000	-476,000	---
NATIONAL PARK SERVICE					
Operation of the national park system	16,189,000	15,380,000	15,380,000	-809,000	---
Planning, development, and operation of recreation facilities	468,000	468,000	468,000	---	---
John F. Kennedy Center for the Performing Arts	111,000	105,000	105,000	-6,000	---
Total, National Park Service	16,768,000	15,953,000	15,953,000	-815,000	---

GEOLOGICAL SURVEY					
Surveys, investigations, and research	13,202,000	12,352,000	12,352,000	-850,000	---
BUREAU OF MINES					
Mines and minerals	3,084,000	2,930,000	2,930,000	-154,000	---
BUREAU OF INDIAN AFFAIRS					
Operation of Indian programs	20,191,000	18,889,000	18,889,000	-1,302,000	---
OFFICE OF TERRITORIAL AFFAIRS					
Administration of territories	65,000	65,000	65,000	---	---
Trust Territory of the Pacific Islands	223,000	213,000	213,000	-10,000	---
Total, Office of Territorial Affairs	288,000	278,000	278,000	-10,000	---
SECRETARIAL OFFICES					
Office of the Solicitor, salaries and expenses	816,000	764,000	764,000	-52,000	---
Office of the Secretary, salaries and expenses	1,397,000	1,397,000	1,397,000	---	---
Departmental operations	664,000	643,000	643,000	-21,000	---
Total, Secretarial offices	2,877,000	2,804,000	2,804,000	-73,000	---
Total, Department of the Interior	71,319,000	75,005,000	75,005,000	+3,686,000	---
(By transfer)	(4,120,000)	---	---	(-4,120,000)	---
(Increase in limitations)	(409,000)	(409,000)	(409,000)	---	---
DEPARTMENT OF JUSTICE					
GENERAL ADMINISTRATION					
Salaries and expenses	1,147,000	1,147,000	1,147,000	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
LEGAL ACTIVITIES					
Salaries and expenses, General Legal Activities	3,733,000	3,733,000	3,733,000	---	---
Salaries and expenses, Antitrust Division	1,363,000	1,363,000	1,363,000	---	---
Salaries and expenses, United States Attorneys and Marshals	7,000,000	7,000,000	7,000,000	---	---
Total, Legal Activities	12,096,000	12,096,000	12,096,000	---	---
FEDERAL BUREAU OF INVESTIGATION					
Salaries and expenses	24,500,000	24,500,000	24,500,000	---	---
IMMIGRATION AND NATURALIZATION SERVICE					
Salaries and expenses	12,887,000	12,887,000	12,887,000	---	---
DRUG ENFORCEMENT ADMINISTRATION					
Salaries and expenses	6,600,000	6,400,000	6,400,000	-200,000	---
FEDERAL PRISON SYSTEM					
Salaries and expenses, Bureau of Prisons	10,000,000	10,000,000	10,000,000	---	---
Federal Prison Industries Incorporated: Limitation on administrative and vocational training expenses (increase in limitation)	(220,000)	(220,000)	(220,000)	---	---

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION					
Salaries and expenses	1,525,000	---	---	-1,525,000	---
Total, Department of Justice	68,755,000	67,030,000	67,030,000	-1,725,000	---
(Increase in limitations)	(220,000)	(220,000)	(220,000)	---	---
DEPARTMENT OF LABOR					
LABOR-MANAGEMENT SERVICES ADMINISTRATION					
Salaries and expenses	1,387,000	1,100,000	1,100,000	-287,000	---
EMPLOYMENT STANDARDS ADMINISTRATION					
Salaries and expenses	4,937,000	4,437,000	4,487,000	-500,000	---
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION					
Salaries and expenses	2,430,000	2,430,000	2,430,000	---	---
BUREAU OF LABOR STATISTICS					
Salaries and expenses	2,858,000	1,158,000	1,158,000	-1,700,000	---
DEPARTMENTAL MANAGEMENT					
Salaries and expenses	3,142,000	2,043,000	2,043,000	-1,099,000	---
(Trust fund transfer)	(45,000)	---	---	(-45,000)	---
Total, Department of Labor	14,804,000	11,218,000	11,218,000	-3,586,000	---
(Trust fund transfer)	(45,000)	---	---	(-45,000)	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
DEPARTMENT OF STATE					
ADMINISTRATION OF FOREIGN AFFAIRS					
Salaries and expenses	15,982,000	15,982,000	15,982,000	---	---
Acquisition, operation, and maintenance of buildings abroad	209,000	209,000	209,000	---	---
Total, Administration of Foreign Affairs	16,191,000	16,191,000	16,191,000	---	---
INTERNATIONAL ORGANIZATIONS AND CONFERENCES					
Missions to international organizations	247,000	247,000	247,000	---	---
International trade negotiations	85,000	85,000	85,000	---	---
Total, International Organizations and Conferences	332,000	332,000	332,000	---	---
INTERNATIONAL COMMISSIONS					
International Boundary and Water Commission, United States and Mexico: Salaries and expenses	320,000	320,000	320,000	---	---
American sections, international commissions	56,000	56,000	56,000	---	---
Total, International commissions	376,000	376,000	376,000	---	---

READER

OTHER					
Migration and refugee assistance	35,000	35,000	35,000	---	---
Total, Department of State	16,934,000	16,934,000	16,934,000	---	---
DEPARTMENT OF TRANSPORTATION					
OFFICE OF THE SECRETARY					
Salaries and expenses	2,100,000	1,450,000	1,450,000	-650,000	---
(By transfer)	(66,677)	(63,331)	(63,331)	(-3,346)	---
Limitation on working capital fund (increase in limitation)	(501,000)	(501,000)	(501,000)	---	---
COAST GUARD					
Operating expenses	33,402,000	32,800,000	32,800,000	-602,000	---
Reserve training	2,000,000	2,000,000	2,000,000	---	---
Total, Coast Guard	35,402,000	34,800,000	34,800,000	-602,000	---
FEDERAL AVIATION ADMINISTRATION					
Operations	97,600,000	95,000,000	95,000,000	-2,600,000	---
Operation and maintenance, Metropolitan Washington Airports	1,020,000	1,020,000	1,020,000	---	---
Total, Federal Aviation Administration	98,620,000	96,020,000	96,020,000	-2,600,000	---
FEDERAL HIGHWAY ADMINISTRATION					
Motor carrier safety	370,000	370,000	370,000	---	---
Limitation on general operating expenses (increase in limitation)	(6,400,000)	(5,600,000)	(5,600,000)	(-800,000)	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION					
Traffic and highway safety	1,312,000	1,000,000	1,000,000	-312,000	---
FEDERAL RAILROAD ADMINISTRATION					
Office of the administrator	367,000	340,000	340,000	-27,000	---
Railroad safety	675,000	400,000	400,000	-275,000	---
Total, Federal Railroad Administration	1,042,000	740,000	740,000	-302,000	---
SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION					
Limitation on administrative expenses (increase in limitation)	(65,000)	(60,000)	(60,000)	(-5,000)	---
MATERIALS TRANSPORTATION BUREAU					
Materials transportation program	213,000	190,000	190,000	-23,000	---
Total, Department of Transportation	139,059,000	134,570,000	134,570,000	-4,489,000	---
(By transfer)	(66,677)	(63,331)	(63,331)	(-3,346)	---
(Increase in limitations)	(6,966,000)	(6,161,000)	(6,161,000)	(-805,000)	---

DEPARTMENT OF THE TREASURY					
Office of the Secretary:					
Salaries and expenses	914,000	914,000	914,000	---	---
Office of Revenue Sharing:					
Salaries and expenses	150,000	---	---	-150,000	---
Federal Law Enforcement Training Center:					
Salaries and expenses	453,000	453,000	453,000	---	---
Bureau of Government Financial Operations:					
Salaries and expenses	2,826,000	2,826,000	2,826,000	---	---
Bureau of Alcohol, Tobacco and Firearms:					
Salaries and expenses	6,032,000	6,032,000	6,032,000	---	---
United States Customs Service:					
Salaries and expenses	20,774,000	20,774,000	20,774,000	---	---
Bureau of the Public Debt:					
Administering the public debt	2,117,000	2,117,000	2,117,000	---	---
Internal Revenue Service:					
Salaries and expenses	2,763,000	2,763,000	2,763,000	---	---
Accounts, collection and taxpayer service	40,069,000	40,069,000	40,069,000	---	---
Compliance	50,312,000	50,312,000	50,312,000	---	---
Total, Internal Revenue Service	93,144,000	93,144,000	93,144,000	---	---
United States Secret Service:					
Salaries and expenses	5,890,000	5,890,000	5,890,000	---	---
Total, Department of the Treasury	132,300,000	132,150,000	132,150,000	-150,000	---
ENVIRONMENTAL PROTECTION AGENCY					
Agency and regional management	3,200,000	3,200,000	3,200,000	---	---
Research and development	3,400,000	1,400,000	1,400,000	-2,000,000	---
Abatement and control	7,100,000	4,600,000	4,600,000	-2,500,000	---
Enforcement	2,500,000	2,000,000	2,000,000	-500,000	---
Total, Environmental Protection Agency	16,200,000	11,200,000	11,200,000	-5,000,000	---

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COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
GENERAL SERVICES ADMINISTRATION					
Federal Buildings Fund:					
Limitations on availability of revenue (increase in limitations):					
Real property operations	(10,494,000)	(10,494,000)	(10,494,000)	---	---
Program direction and centralized services	(3,343,000)	(3,343,000)	(3,343,000)	---	---
Total, Federal Buildings Fund (increase in limitations)	(13,837,000)	(13,837,000)	(13,837,000)	---	---
Personal Property Activities:					
Federal Supply Service, operating expenses	7,080,000	7,080,000	7,080,000	---	---
Records Activities:					
National Archives and Records Service, operating expenses	2,340,000	2,340,000	2,340,000	---	---
Records declassification	95,000	95,000	95,000	---	---
Total, Records Activities	2,435,000	2,435,000	2,435,000	---	---
Automated Data and Telecommunications Activities:					
Automated Data and Telecommunications Service, operating expenses	466,000	466,000	466,000	---	---
Preparedness Activities:					
Federal Preparedness Agency, salaries and expenses	1,402,000	1,402,000	1,402,000	---	---

General activities:					
General management and agency operations, salaries and expenses	739,000	739,000	739,000	---	---
Indian trust accounting	137,000	137,000	137,000	---	---
Administrative and staff support services, salaries and expenses	4,257,000	4,257,000	4,257,000	---	---
Consumer information center	31,000	---	---	-31,000	---
Total, General activities	5,164,000	5,133,000	5,133,000	-31,000	---
Total, General Services Administration	16,547,000	16,516,000	16,516,000	-31,000	---
(Increase in limitations)	(13,837,000)	(13,837,000)	(13,837,000)	---	---
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION					
Research and program management	46,200,000	45,761,000	45,761,000	-439,000	---
VETERANS ADMINISTRATION					
Medical care	198,963,000	198,963,000	198,963,000	---	---
Medical and prosthetic research	4,853,000	4,053,000	4,053,000	-800,000	---
Medical administration and miscellaneous operating expenses	1,316,000	1,316,000	1,316,000	---	---
General operating expenses	25,900,000	25,050,000	25,050,000	-850,000	---
Construction, minor projects	1,128,000	1,128,000	1,128,000	---	---
Total, Veterans Administration	232,160,000	230,510,000	230,510,000	-1,650,000	---
OTHER INDEPENDENT AGENCIES					
ACTION:					
Operating expenses, international programs	1,069,000	1,069,000	1,069,000	---	---
Operating expenses, domestic programs	1,011,000	900,000	900,000	-111,000	---
Total, ACTION	2,080,000	1,969,000	1,969,000	-111,000	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
Administrative Conference of the United States:					
Salaries and expenses	21,000	21,000	21,000	---	---
Advisory Council on Historic Preservation:					
Salaries and expenses	61,000	57,000	57,000	-4,000	---
Arms Control and Disarmament Agency:					
Arms control and disarmament activities	350,000	350,000	350,000	---	---
Civil Aeronautics Board:					
Salaries and expenses	1,240,000	1,200,000	1,200,000	-40,000	---
Civil Service Commission:					
Salaries and expenses	5,780,000	5,780,000	5,780,000	---	---
(Increase in limitation)	(1,290,000)	(1,290,000)	(1,290,000)	---	---
Commission of Fine Arts:					
Salaries and expenses	11,000	10,000	10,000	-1,000	---
Commission on Civil Rights:					
Salaries and expenses	446,000	366,000	366,000	-80,000	---
Committee for Purchase from the Blind and other Severely Handicapped:					
Salaries and expenses	17,000	17,000	17,000	---	---
Commodity Futures Trading Commission:					
Salaries and expenses	633,000	633,000	633,000	---	---
Community Services Administration:					
Community services program	1,700,000	1,500,000	1,500,000	-200,000	---
Consumer Product Safety Commission:					
Salaries and expenses	1,467,000	1,317,000	1,317,000	-150,000	---
Export-Import Bank of the United States:					
Limitation on administrative expenses (Increase in limitation)	(495,000)	(475,000)	(475,000)	(-20,000)	---

Farm Credit Administration:					
Limitation on administrative expenses (Increase in limitation)	(433,000)	(433,000)	(433,000)	---	---
Federal Communications Commission:					
Salaries and expenses	3,068,000	3,000,000	3,000,000	-68,000	---
Federal Election Commission:					
Salaries and expenses	310,000	310,000	310,000	---	---
Federal Home Loan Bank Board:					
(Increase in limitations):					
Limitation on administrative expenses	(862,000)	(637,000)	(637,000)	(-225,000)	---
Limitation on nonadministrative expenses	(1,520,000)	(1,320,000)	(1,320,000)	(-200,000)	---
Federal Savings and Loan Insurance Corporation fund:					
Limitation on administrative expenses (Increase in limitation)	(51,000)	(29,000)	(29,000)	(-22,000)	---
Total, Federal Home Loan Bank Board, (Increase in limitations)	(2,433,000)	(1,986,000)	(1,986,000)	(-447,000)	---
Federal Maritime Commission:					
Salaries and expenses	470,000	300,000	300,000	-170,000	---
Federal Mediation and Conciliation Service:					
Salaries and expenses	533,000	533,000	533,000	---	---
Federal Trade Commission:					
Salaries and expenses	2,650,000	2,600,000	2,600,000	-50,000	---
Indian Claims Commission:					
Salaries and expenses	70,000	64,000	64,000	-6,000	---
INTERGOVERNMENTAL AGENCIES					
Advisory Commission on Intergovernmental Relations:					
Salaries and expenses	54,000	54,000	54,000	---	---
Appalachian Regional Commission:					
Salaries and expenses	8,000	8,000	8,000	---	---
Delaware River Basin Commission:					
Salaries and expenses	11,000	11,000	11,000	---	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
Susquehanna River Basin Commission:					
Salaries and expenses	11,000	11,000	11,000	---	---
Total, Intergovernmental agencies	84,000	84,000	84,000	---	---
Intelligence Community Oversight:					
Intelligence community staff	299,000	299,000	299,000	---	---
International Communication Agency:					
Salaries and expenses	7,770,000	7,770,000	7,770,000	---	---
International Trade Commission:					
Salaries and expenses	713,000	713,000	713,000	---	---
Interstate Commerce Commission:					
Salaries and expenses	2,900,000	2,750,000	2,750,000	-150,000	---
National Capital Planning Commission:					
Salaries and expenses	252,000	238,000	238,000	-14,000	---
National Commission on Libraries and Information Science:					
Salaries and expenses	44,000	35,000	35,000	-9,000	---
National Foundation on the Arts and the Humanities:					
National endowment for the arts: Salaries and expenses	373,000	350,000	350,000	-23,000	---
National endowment for the humanities: Salaries and expenses	292,000	275,000	275,000	-17,000	---
Total, National Foundation on the Arts and the Humanities	665,000	625,000	625,000	-40,000	---

National Labor Relations Board:					
Salaries and expenses	3,988,000	3,988,000	3,988,000	---	---
National Mediation Board:					
Salaries and expenses	210,000	210,000	210,000	---	---
National Science Foundation:					
Research and related activities	2,000,000	1,850,000	1,850,000	-150,000	---
Limitation on program development and management (increase in limitation)	(3,900,000)	(3,500,000)	(3,500,000)	(-400,000)	---
National Transportation Safety Board:					
Salaries and expenses	690,000	390,000	540,000	-150,000	+150,000
Nuclear Regulatory Commission:					
Salaries and expenses	5,350,000	5,000,000	5,000,000	-350,000	---
Pennsylvania Avenue Development Corporation:					
Salaries and expenses	32,000	29,000	29,000	-3,000	---
Railroad Retirement Board:					
Limitation on salaries and expenses (increase in limitation)	(1,590,000)	(1,450,000)	(1,450,000)	(-140,000)	---
Renegotiation Board:					
Salaries and expenses	332,000	225,000	225,000	-107,000	---
Securities and Exchange Commission:					
Salaries and expenses	3,000,000	3,000,000	3,000,000	---	---
Small Business Administration:					
Salaries and expenses	4,000,000	4,000,000	4,000,000	---	---
Selective Service System:					
Salaries and expenses	347,000	333,000	333,000	-14,000	---
Smithsonian Institution:					
Salaries and expenses	4,815,000	4,575,000	4,575,000	-240,000	---
Science information exchange	85,000	80,000	80,000	-5,000	---
Salaries and expenses, National Gallery of Art	705,000	670,000	670,000	-35,000	---
Salaries and expenses, Woodrow Wilson International Center for Scholars	31,000	30,000	30,000	-1,000	---
Total, Smithsonian Institution	5,636,000	5,355,000	5,355,000	-281,000	---
Total, Other Independent Agencies	59,219,000	56,921,000	57,071,000	-2,148,000	+150,000
(Increase in limitations)	(10,141,000)	(9,134,000)	(9,134,000)	(-1,007,000)	---
Temporary Study Commission:					
National Transportation Policy Study Commission:					
Salaries and expenses	70,000	40,000	40,000	-30,000	---

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

TITLE II—INCREASED PAY COSTS—Continued

(Amounts in dollars)

Department or activity	Budget estimates	House bill	Senate committee recommendation	Senate committee recommendation compared with (+ or −): Budget estimates	Senate committee recommendation compared with (+ or −): House bill
UNITED STATES TAX COURT					
Salaries and expenses	106,000	---	---	-106,000	---
TITLE II - INCREASED PAY COSTS					
TOTAL - New budget (obligational) authority	3,289,680,436	3,197,224,136	3,218,507,136	-71,173,300	+21,283,000
(By transfer)	(49,305,677)	(4,951,331)	(4,951,331)	(-44,354,346)	---
(Increase in limitations)	(125,530,000)	(118,501,000)	(118,501,000)	(-7,029,000)	---
(Trust fund transfer)	(45,000)	---	---	(-45,000)	---
(Transfer from Commodity Credit Corporation)	(1,036,000)	(1,036,000)	(1,036,000)	---	---
(By transfer, FHA funds)	(10,929,000)	(10,929,000)	(16,929,000)	(+6,000,000)	(+6,000,000)
TITLE III - GENERAL PROVISIONS					
Sec. 303, Reduction estimates	---	-35,198,000	---	---	+35,198,000

TITLE III

GENERAL PROVISIONS

Title III of the bill contains two general provisions.

Section 301 carries the usual prohibition against the obligation of funds provided in the bill beyond the current fiscal year as follows:

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302 is a routine provision associated with the many pay increase appropriations contained in the bill which will, when added to the amounts provided in regular appropriation acts, increase the total approved to an amount authorized either for direct accounts or limitations, as follows:

SEC. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1978, limiting the amounts which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

The Committee has deleted a general provision inserted during House debate which would have withheld from obligation and expenditure, 2 percent of the budget authority provided in the bill, with the proviso that no more than 5 percent may be withheld from any individual appropriation account, activity and project. It is the Committee's view that such an effort is inappropriate in a supplemental appropriations bill coming before the Senate so late in the fiscal year It should also be noted that the amounts appropriated in the bill are 7.5 percent below the budget estimates submitted.

Furthermore, it is the Committee's strong belief that it is the duty of the Congress to determine spending priorities and levels; across the board cuts, such as that contained in the bill passed by the House, turn over to the executive branch decisionmaking responsibilities which are fundamental constitutional requirements imposed on the legislative branch.

Section 303 is a general provision, the substance of which has been passed by both the House of Representatives and the Senate on previous occasions. This section would provide that the annuity upon separation from service of a congressional employee may be computed allowing credit for service as an employee of the senatorial or congressional campaign committees, if the individual makes a deposit, as provided by law, with respect to such service. The maximum period of service which may be credited may not exceed 10 years.

SEC. 303. (a) Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(1) An individual who is entitled to an annuity upon separation from service as a Congressional employee may be allowed credit for service as an employee of the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee, or the Republican National Congressional Committee if such employee makes the deposit provided for in section 8334(c) of this title with respect to Congressional employees for such service. The period of service which may be credited under this subsection by an individual shall not exceed ten years.".

(b) The amendment made by subsection (a) shall apply to individuals who are entitled to annuities upon separation from service as Congressional employees on or after the date of the enactment of this Act.

The Committee recommends a proposed section 304 to amend the Supplementary Treasury and Post Office Departments Appropriation Act, 1949, (62 Stat. 561).

The act created a permanent indefinite appropriation to refund Internal Revenue overpayments. Its use for other purposes has increased in recent years. For example, it is used to disburse overpayments authorized by the Revenue Adjustment Act of 1975 (Public Law 94–164) where the earned income credit exceeds the amount of tax liability and results in a payment to the filer.

The Committee is concerned that the permanent indefinite appropriation could be used to an even greater extent in the future and in ways never contemplated when the statute was enacted over three decades ago. A total of $35.7 billion was disbursed from this appropriation in fiscal year 1977.

The language makes no change in the authority of the Internal Revenue Service to issue refunds. In addition, authority is continued for all statutory entitlement payments enacted prior to January 1, 1978. An annual appropriation will be required for payment to statutory entitlement provisions enacted subsequent to January 1, 1978.

SEC. 304. The Supplemental Treasury and Post Office Departments Appropriation Act, 1949, (62 Stat. 561), also known as the Act of June 19, 1948, is amended by adding at the end thereof the following:

"No disbursement may be made from the appropriation to the Treasury Department entitled "Bureau of Internal Revenue Refunding Internal-Revenue Collections" except (a) refunds to the limit of liability of an individual tax account, and (b) refunds due from any credit provision of the Internal Revenue Code enacted prior to January 1, 1978.".

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NOTICE: **In lieu of a star print, errata are printed to indicate corrections to the original report**

Calendar No. 986

95TH CONGRESS, *2d Session* } SENATE { REPORT No. 95-1063

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1979

AUGUST 2 (legislative day, MAY 17), 1978—Ordered to be printed

Mr. ROBERT C. BYRD, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 12932]

The Committee on Appropriations, to which was referred the bill (H.R. 12932) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended.

Errata

Page 17, line 32, strike out [$313.4] and insert: $319.8

Page 22, line 5, strike out [$1,035,000] and insert: $1,235,000

Page 68, after line 6, insert:

House allowance 4, 084, 624, 000

Page 68, line 10 strike out [$1,077,770] and insert: $1,077,770,000

Page 69, line 11 from the bottom, strike out [143,235,000] and insert: 143,899,000

Page 69, line 3 from the bottom, strike out [$8,600,000] and insert: $8,400,000

Page 95, column 2 under "Committee recommendation," alining with "Helium fund (permanent authority)", strike out [(—47,500,-000)] and insert: ----------

29-010 O

Page 95, column 3 under "1978 Appropriation", alining with "Helium fund (permanent authority)", strike out [(−47,500,000)] and insert ----------

Page 95, column 4 under "Budget estimate", alining with "Helium fund (permanent authority)", strike out [(−95,000,000)] and insert: (−47,500,000)

Page 95, column 5 under "House allowance", alining with "Helium fund (permanent authority)", strike out [(−47,500,000)] and insert: ----------

Page 101, column 2 under "Committee recommendation", alining with "National Endowment for the Humanities, Salaries and expenses", strike out [98,300,000] and insert: 97,800,000

Page 101, column 2 under "Committee recommendation", alining with "National Endowment for the Humanities, Administrative expenses", strike out [9,450,000] and insert: 9,950,000

Page 101, column 3 under "1978 Appropriation", alining with "National Endowment for the Humanities, Salaries and expenses", strike out [+10,500,000] and insert: +10,000,000

Page 101, column 3 under "1978 Appropriation", alining with "National Endowment for the Humanities, Administrative expenses", strike out [+1,250,000] and insert: +1,750,000

Page 101, column 4 under "Budget estimate", alining with "National Endowment for the Humanities, Salaries and expenses", strike out [−2,000,000] and insert: −2,500,000

Page 101, column 4 under "Budget estimate", alining with "National Endowment for the Humanities, Administrative expenses", strike out [−1,350,000] and insert: −850,000

Page 101, column 5 under "House allowance", alining with "National Endowment for the Humanities, Salaries and expenses", strike out [----------] and insert: −500,000

Page 101, column 5 uuder "House allowance", alining with "National Endowment for the Humanities, Administrative expenses", strike out [−1,350,000] and insert: −850,000

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FISCAL YEAR 1979

Amount of bill as passed by House	$12,690,544,000
Amount of decrease by Senate	1,195,781,000
Total of bill as reported by Senate	11,494,763,000
Estimates considered by House	12,827,257,000
Estimates considered by Senate	12,830,946,000
The bill as reported to the Senate:	
Under the budget estimate, 1979	1,336,183,000
Over appropriations, 1978	840,662,000

31-628 O

SUMMARY OF BILL

For this bill, estimates totaling $12,830,946,000 in new obligational authority were considered by the Committee for the programs and activities of the agencies and bureaus of the Department of the Interior, except the Bureau of Reclamation, and the following related agencies:

Department of Agriculture:
- Forest Service.

Department of Energy:
- Fossil energy.
- Energy production, demonstration, and distribution:
  - Coal.
  - Naval petroleum and oil shale reserves.
  - Solar (portion).
  - Multi-resource (portion).
- Conservation (except energy storage systems).
- Economic Regulatory Administration.
- Strategic petroleum reserve.
- Energy Information Administration.

Department of Health, Education, and Welfare:
- Indian Health Service.
- Indian Education Act.
- Institute of Museum Services.

Indian Claims Commission.
Navajo and Hopi Relocation Commission.
Smithsonian Institution.
National Gallery of Art.
Woodrow Wilson International Center for Scholars.
National Foundation on the Arts and Humanities.
Commission of Fine Arts.
Advisory Council on Historic Preservation.
National Capital Planning Commission.
Franklin Delano Roosevelt Memorial Commission.
Joint Federal-State Land Use Planning Commission for Alaska.
Pennsylvania Avenue Development Corporation.

In addition to the 33 days of hearings conducted on the administration's budget requests, the Committee received testimony during four full days of hearings from more than 175 non-Government witnesses whose requests would add more than $3.2 billion to the budgets of the agencies under this bill.

The Committee recommends appropriations totaling $11,494,763,000 for the programs and activities in this bill. This includes $10,700,210,000 for definite and $781,153,000 for indefinite appropriations; and $13,400,000 in borrowing authority. This is a reduction of $1,336,183,000 below the budget estimates and $1,195,781,000 below the House allowance.

REVENUE GENERATED BY AGENCIES IN BILL

Oil and gas leasing and other mineral leasing activities, the timber and range programs, and oil production from the Naval petroleum reserves will generate income to the Government well in

excess of $5 billion in fiscal year 1979. These estimated receipts are tabulated below:

	Fiscal year—		
	1977	1978	1979
Department of the Interior	$3,555,291,000	$3,876,666,000	$3,956,707,000
Forest Service	691,568,000	757,875,000	850,725,000
Naval petroleum and oil shale reserves	379,742,000	450,900,000	673,000,000
Total	4,626,601,000	5,094,441,000	5,480,432,000

Major Changes Recommended in the Bill

The Committee's approach to the bill this year strongly emphasized cutting back Federal spending wherever practical as an effective weapon against inflation. In the Committee's judgment combating inflation has to be the single most important fiscal consideration. This is reflected in the appropriation levels recommended in the bill, which fall well below both the President's budget estimates and the House allowances. Total spending recommended in the bill is also held to a 6-percent increase over the current year.

At the same time the Committee has recognized other pressing needs that have lasting benefits for our country's natural and cultural resources, its energy independence and the welfare of its native Americans and territorial citizens. Accordingly, while it has rejected unjustified expansion and trimmed back marginal programs, the Committee has also recommended selected increases. These changes netted out to an actual budget increase overall for the Interior Department and for certain energy-related activities and Indian programs among the related agencies. But even within the high priority programs that have been strengthened the Committee has effected budget cutbacks wherever program expansion was poorly justified or whenever agencies could not demonstrate effective obligations.

A comparative summary of funding in the bill by agency is shown below:

[In thousands of dollars]

		Committee recommendation compared with—	
	Committee recommendation	Budget estimate	House allowance
Title I—Department of the Interior:			
Bureau of Land Management	488,747	+623	−21,399
Office of Water Research and Technology	26,842	−312	−4,215
Heritage Conservation and Recreation Service	760,068	−30,910	+36,353
Fish and Wildlife Service	301,137	+9,107	−1,861
National Park Service	517,555	+12,969	+3,930
Geological Survey	647,125	+63,214	+11,388
Bureau of Mines	118,058	−3,271	−14,609

[In thousands of dollars]

	Committee recommendation	Committee recommendation compared with—	
		Budget estimate	House allowance
Title I—Department of the Interior—Continued			
Office of Surface Mining Reclamation and Enforcement	127,395	+12,873	+10,200
Bureau of Indian Affairs	1,003,094	+29,613	−32,273
Territorial Affairs	156,321	−35	−25,380
Office of the Secretary	42,545	+938	−846
Office of the Solicitor	14,394	−501	−191
Total, Title I—Department of the Interior	4,203,281	+94,308	−38,903
Title II—Related Agencies:			
Forest Service	1,356,871	+14,663	−23,655
Department of Energy	4,835,757	−1,447,248	−1,124,611
Indian Health	558,087	+15,280	−2,516
Indian Education	71,735	−4,000	−2,000
Institute of Museum Services	8,000	+248	+248
Navajo and Hopi Indian Relocation Commission	8,692	−4,437	−60
Smithsonian Institution	107,665	−2,135	−1,451
National Gallery of Art	18,455	−850	−850
Woodrow Wilson International Center for Scholars	1,567	+250	.....
National Endowment for the Arts	149,210	−450	−450
National Endowment for the Humanities	144,250	−1,350	−1,350
Commission of Fine Arts	263	−1	.....
Advisory Council on Historic Preservation	1,178	−375	.....
National Capital Planning Commission	1,991	+52	+55
Franklin Delano Roosevelt Memorial Commission	20	.....	.....
Joint Federal-State Land Use Planning Commission for Alaska	356	−238	−238
Pennsylvania Avenue Development Corporation	27,385	+100	.....
Total, Title II—Related Agencies	7,291,482	−1,430,491	−1,156,878
Grand total	11,494,763	−1,336,183	−1,195,781

Interior Department.—Major recommended increases for Interior Department agencies have been keyed to resumption of Federal coal leasing, Outer Continental Shelf environmental studies, exploration and development of the Alaska petroleum reserve, surface mining research, historic preservation, and Indian housing and school construction. They have been largely offset by reductions in unauthorized or marginal Federal land acquisition for recreation, deletion of the unsupported natural heritage program, and deferral of low priority programs and advance firefighting costs.

Although Federal land acquisition funding is reduced overall, the Committee has been able to provide an unbudgeted $100 million to

continue paying mandatory costs of the Redwood National Park expansion. Together with appropriations in the pending supplemental bill for fiscal year 1978, this will make a total of nearly $300 million available to landowners whose properties were taken by the expansion bill. It will also save the Government the costly interest that would otherwise accrue while the courts determine the value of the land that has been added to the park.

Related agencies.—The major recommended reductions in title II are in unauthorized or overfunded energy programs, with the biggest single cutback—$1.2 billion—applied to the strategic petroleum reserve. The Committee believes the Department of Energy badly overestimated its 2-year needs for oil purchases. The $3 billion recommended in the bill will carry the program through the first quarter of fiscal year 1980 and beyond without slowing the 500 million barrel fill schedule.

At the same time the Committee has recommended significant increases for the Department of Energy to:

Expand research and development on enhanced oil and gas recovery, energy conversion and fuel conservation;

Accelerate the development and testing of magnetohydrodynamics;

Launch the first major demonstrations of second generation coal liquids technology;

Establish loan guarantees for projects to convert urban waste to energy; and

Fund major energy impact assistance to States and localities.

Also in title II of the bill the Committee recommends substantial increases for the national forests and for Indian health services and facilities.

UNAUTHORIZED PROGRAMS

Appropriations are recommended in the bill for a variety of ongoing programs for which congressional legislative authorization is still incomplete. In most instances, authorizing bills have passed one or both Houses of the Congress. Bills have been reported on the balance. Below is a listing of funded programs for which authorization has not yet been enacted:

Bureau of Land Management.

Office of Water Research and Technology: Water resources research and saline conversion.

Heritage Conservation and Recreation Service: Historical and Archeological Data Preservation.

U.S. Fish and Wildlife Service: Endangered Species.

Office of Surface Mining Reclamation and Enforcement: Regulation and Technology.

Administration of Territories.

Trust Territory of the Pacific Islands.

Navajo and Hopi Indian Relocation Commission: Salaries and expenses.

Pennsylvania Avenue Development Corporation: Salaries and expenses.

Public Development.

Reprograming Procedures

Procedures governing reprograming actions for programs and activities funded in this bill have been developed piecemeal over a period of many years, usually to deal with specific situations. The Committee learned, however, that there is no clear understanding of these procedures among all agencies. In an effort to establish uniform and clearly understood guidelines, the Committee worked with the House Committee in drawing up the following definitions, procedures and requirements which are designed to provide continuing congressional oversight of spending practices:

1. Definition.—"Reprograming," as defined in these procedures, includes the reallocation of funds from one budget activity to another. In cases where either Committee report displays an allocation of an appropriation below the activity level, that finer level of detail shall be the basis for reprograming. For construction accounts, a reprograming constitutes the reallocation of funds from one construction project identified in the justifications to another. A reprograming shall also consist of any significant departure from the program described in the agency's budget justifications.

2. Criteria for reprograming.—

(a) Any project or activity which may be deferred through reprograming shall not later be accomplished by means of further reprograming; but, instead, funds should again be sought for the deferred project or activity through regular appropriation processes.

(b) A reprograming should be made only when an unforeseen situation arises; and then only if postponement of the project or the activity until the next appropriation year would result in actual loss or damage. Mere convenience or desire should not be factors for consideration.

(c) Reprograming should not be employed to initiate new programs or to change allocations specifically denied, limited or increased by the Congress in the Act or the report. In cases where unforeseen events or conditions are deemed to require such changes, proposals shall be submitted in advance to the Committee, regardless of amounts involved, and be fully explained and justified.

3. Reporting and approval procedures.—

(a) Any proposed reprograming must be submitted to the Committee in writing prior to implementation if it exceeds $250,000 annually or results in an increase or decrease of more than 10 percent annually in affected programs.

(b) All reprogramings shall be reported to the Committee quarterly and shall include cumulative totals.

(c) Any significant shifts of funding among object classifications should also be reported to the Committees in a timely manner.

(d) Reprograming proposals submitted to the Committee for prior approval shall be considered approved after 30 calendar days if the Committee has posed no objection. However, agencies will be expected to extend the approval deadline if specifically requested by either Committee.

4. Administrative Overhead Accounts.—For all appropriations where costs of overhead administrative expenses are funded in part from "assessments" of various budget activities within an appropria-

tion, the assessments shall be shown in justifications under the discussion of administrative expenses (as is the case with the Bureau of Mines).

5. Contingency Accounts.—For all appropriations where assessments are made against various budget activities or allocations for contingencies, the Committee expects a full explanation, separate from the justifications. The explanation shall show the amount of the assessment, the activities assessed, and the purpose of the fund. The Committee expects annual reports each year detailing the use of these funds. In no cases shall such a fund be used to finance projects and activities disapproved or limited by Congress or to finance new permanent positions or to finance programs or activities that could be foreseen and included in the normal budget review process. Contingency funds shall not be used to initiate new programs.

6. Individual construction projects and land purchases not exceeding $100,000 may be exempted from the procedural requirements of paragraph 3a.

The Committee is recommending paragraph 6 as a simplification in the procedure for shifting funds among minor construction and land acquisition projects. Paragraph 6 is subject to House Committee agreement.

TITLE I—DEPARTMENT OF THE INTERIOR

LAND AND WATER RESOURCES

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Appropriation, 1978	$246,938,000
Budget estimate, 1979	275,368,000
House allowance	295,315,000
Committee recommendation	274,991,000

The Committee recommends an appropriation of $274,991,000, reducing the budget estimate by $377,000 and the House allowance by $20,324,000. The total recommended in the bill for this principal operating account of the Bureau involves program increases of $26,623,000 more than offset by decreases of $27,000,000. Most of the reduction—$25,250,000—is merely a deferral of firefighting costs. The recommendation, then, involves $24,873,000 in real program increases. The Committee's recommendations are detailed below by activity:

Activity	*Budget estimate*	*Committee recommendation*
Energy and minerals management	$78,619,000	$90,319,000
Lands and realty management	27,281,000	30,881,000
Renewable resources management	90,301,000	101,324,000
Planning and data management	23,743,000	23,743,000
Cadastral survey	20,544,000	20,544,000
Firefighting and rehabilitation	30,000,000	4,750,000
Administration and enforcement	4,880,000	4,356,000
Pay cost annualization	.....	—798,000
Working capital fund	.....	—128,000

Energy and minerals management.—For onshore energy leasing activities, the Committee recommends a $300,000 reduction for the dormant oil shale program. The reduced level of $630,000 should be adequate until needed technical, environmental and financial breakthroughs are achieved. The Committee recommends $20,352,000 for coal leasing—$3,000,000 above the budget and $600,000 below the House allowance. The budget increase is needed to fund a limited reactivation of coal leasing following settlement of an injunctive suit brought by the Natural Resources Defense Council. The Committee has not recommended the $300,000 House increase for geothermal production. Any additional costs for plant siting environmental impact studies can be accomodated within budgeted funds—$2,585,000—since leasing activities have peaked.

An increase of $9,000,000 for Outer Continental Shelf oil and gas leasing is recommended to fund needed special environmental studies. The $39,398,000 budget estimate involved an $18,494,000

reduction stemming from policy changes in baseline studies. However, a preliminary report on a subsequent OCS environmental study indicates an increased need for special studies. The recommended increase will finance high priority studies pending better justification for any additional needs that might be identified in a supplemental appropriation request.

The $78,619,000 budget request for nonenergy minerals is recommended in full without the $1,000,000 addition approved by the House to reduce the mineral patent application backlog. The Bureau should redirect funds within the $1,253,000 increase for mining law administration to attack the backlog.

Lands and realty management.—An increase of $3,600,000 is recommended for realty operations, allocated as follows: $500,000 to process additional energy related rights-of-way permits; $1,100,000 to insure conveyance of additional acreage under the Alaska Native Claims Settlement Act; $1,900,000 to reduce the backlog of land applications for State and local government purposes, agricultural development, and other public uses and $100,000 for processing unintentional trespass cases. In an effort to control spending increases and bureaucratic growth, the Committee has not recommended all of the $10,000,000 increase approved by the House. More effective use of existing resources should enable the Bureau to reduce backlogs and meet the goals of the Federal Land Policy and Management Act of 1976.

Advantages and possible cost savings of an advanced side-looking airborne radar (SLAR) mapping system have been brought to the Committee's attention. Since this system may provide a data base suitable for various resource applications, the Committee recommends that the Bureau evaluate the SLAR technology and report its findings to the Committee by December 31, 1978.

Renewable resource management.—Increases recommended for range and forest resources includes $2,000,000 each for range, recreation, and soil, water and air management programs and $3,423,000 for wildlife habitat. Although the budget increases total $9,423,000 they are less than one-half the program expansion recommended by the House. The Committee recommendation, however, is nearly $23,000,000 above current year spending and should provide an effective program level. Further, examination of Bureau statements on the utilization of House funding increases did not convince the Committee that all the added amounts in the House-passed bill could be obligated effectively. In addition to the general increase, $1,600,000 has been added to soil, water, and air management for flood protection facilities in the San Simon basin of Arizona.

Administration and enforcement.—A recommended reduction of $524,000 is directed at the Bureau's $1,124,000 request for law enforcement. The Committee believes increased support to State and local governments under the $105,000,000 for payments in lieu of taxes offsets the need for the requested increase in contracts and cooperative agreements.

Other activities.—The Committee has recommended the full budget request for planning and data management and for cadastral surveys. House increases totaling $9,500,000 for these activities were directed at accelerating Bureau planning and survey programs. The

Committee believes this program acceleration, although worthy, must be deferred in order to meet higher priorities and to curb the growth of Federal spending.

The Committee has noted with some concern the steady growth of funds devoted to planning, inventory, study, and data management activities, often at the expense of resource management. Information developed at Committee budget hearings revealed that nearly $49,000,000, about one-fifth of the Bureau's operating budget, is now devoted to studies and related activities. The Committee is keenly aware of the increased demands brought on by environmental protection requirements, wilderness reviews, and similar mandates. Nevertheless, the Bureau should not permit these demands to outweigh the pressing need for wise management of public resources, which is the primary mission of the Bureau.

The Committee is disturbed over reports of harassment, prosecution and eviction of persons attempting to make their homes on public lands in Alaska. The few who seek a wilderness experience in remote regions of the State have little or no environmental impact on those vast reaches, and the Committee seriously questions the cost-effectiveness of Federal pursuit and harassment. The Department should call a halt to this practice immediately pending a resolution of the Alaska lands issue now before the Congress.

ACQUISITION, CONSTRUCTION, AND MAINTENANCE

Appropriation, 1978	$18,707,000
Estimate, 1979	17,683,000
House allowance	19,758,000
Committee recommendation	18,683,000

The Committee recommends an appropriation of $18,683,000 increasing the budget request by $1,000,000 and reducing the House allowance by $1,075,000.

Approval is recommended for the full budget estimate of $10,217,000 for construction and acquisition and $7,466,000 for maintenance. In addition, the Committee agrees with the House increase of $1,000,000 for maintenance to reduce backlogs in correcting safety hazards and upgrading basic recreation facilities.

PAYMENTS IN LIEU OF TAXES

Appropriation, 1978	$100,000,000
Estimate, 1979	105,000,000
House allowance	105,000,000
Committee recommendation	105,000,000

The Committee recommends an appropriation of $105,000,000, the same as the budget estimate and the House allowance. The $5,000,000 increase over the fiscal year 1978 appropriation is for anticipated section 3 payments associated with Forest Service land acquisition.

In agreement with the House, bill language is provided which will allow correction of underpayments made in the previous fiscal year.

Ideally, increased Federal payments to State and local governments under various permanent appropriations could be expected to offset the increase for section 3 payments. However, certain prob-

lems in identifying actual payments to local governments were brought out during the Committee's hearings. Legislative changes may be needed to avoid overpayments and inequities under the payments in lieu of taxes program.

OREGON AND CALIFORNIA GRANT LANDS

(Indefinite, Appropriation of Receipts)

Appropriation, 1978	$56,500,000
Estimate, 1979	58,250,000
House allowance	58,250,000
Committee recommendation	58,250,000

The Committee recommends an appropriation of $58,250,000, the same as the budget estimate and the House allowance. The budget authority estimate is based on estimated receipts and does not reflect the actual obligation program, which the budget estimated at $51,619,000. The Committee recommends an obligation level of $57,419,000, an increase of $5,800,000 in the budgeted program and a reduction of $2,700,000 in the House allowance. The recommended increase will finance construction of a district office building in Salem, Oreg., to replace leased space and consolidate support facilities.

RANGE IMPROVEMENTS

(Definite, Appropriation of Receipts)

Appropriation, 1978	$9,172,000
Estimate, 1979	10,900,000
House allowance	10,900,000
Committee recommendation	10,900,000

The Committee recommends an appropriation of $10,900,000, the same as the budget estimate and House allowance, based on anticipated receipts from grazing leases. Should a pending moratorium on grazing fees be enacted, available funding and the range improvement program would necessarily be reduced.

RECREATION, DEVELOPMENT, AND OPERATION OF RECREATION FACILITIES

(Indefinite, Special Fund)

Appropriation, 1978	$300,000
Estimate, 1979	300,000
House allowance	300,000
Committee recommendation	300,000

The Committee recommends an appropriation of $300,000, the same as the budget estimate and the House allowance. This fund, derived from recreation user charges, will be used to perform maintenance on recreation sites and for support of the off-road vehicle management program.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

(Indefinite, Special Fund)

Appropriation, 1978	$11,531,000
Estimate, 1979	20,523,000
House allowance	20,523,000
Committee recommendation	20,523,000

The Committee recommends an appropriation of $20,523,000, the same as the budget estimate and the House allowance. This self-sustaining account, established under authority of the Federal Land Policy and Management Act, permits the Bureau to finance required environmental study costs for rights-of-way applications using fees assessed against applicants. The increase over fiscal year 1978 results from anticipated oil and gas pipeline permits to be issued in fiscal year 1979. An amendment recommended by the Committee would make funds deposited in this account immediately available for obligation, avoiding current procedural delays.

MISCELLANEOUS TRUST FUNDS

(Current, Indefinite)

Appropriation, 1978	$100,000
Estimate, 1979	100,000
House allowance	100,000
Committee recommendation	100,000

The Committee recommends an appropriation of $100,000, the same as the budget estimate and the House allowance, for miscellaneous trust funds. The Federal Land Policy and Management Act of 1976 provides authority for the receipt and expenditure of donations and gifts, advances for survey of islands and omitted lands, and administrative costs of conveyances.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

SALARIES AND EXPENSES

Appropriation, 1978	$25,307,000
Estimate, 1979	27,154,000
House allowance	31,057,000
Committee recommendation	26,842,000

The Committee recommends an appropriation of $26,842,000 a reduction of $312,000 below the budget estimate and $4,215,000 below the House allowance. Allocations are detailed in the following table:

Activity	*Budget estimate*	*Committee recommendation*
Water resource research and development:		
Assistance to State institutes	$6,690,000	$6,705,000
Matching grants	4,000,000	4,000,000
Water resources research	3,200,000	2,800,000
Saline water research and development:		
Water conversion research	2,400,000	2,400,000
Technology development	6,400,000	6,500,000
Technology transfer and information dissemination	1,865,000	1,865,000
General program support	2,599,000	2,599,000
Working capital fund		—27,000

Recommended changes include increases of $765,000 for grants to State institutes and $100,000 for test facilities, elimination of $750,000 for the institute technology transfer program, and a reduction of $400,000 in the $1,900,000 budgeted for water resources research.

Together with unobligated funds carried forward from fiscal 1977, the Committee recommendation provides a total program of $28,612,000, an increase of $1,945,000 over the fiscal 1978 level.

The increase for State institutes will provide grants of $125,000 each to the 51 institutes and $110,000 for Guam, Virgin Islands, and the District of Columbia. The Committee endorses the budget proposal to require a one-third match for these grants.

Concurrent with its fiscal 1979 recommendation, the Committee has approved a fiscal 1978 reprograming for Office of Water Research and Technology that shifts the program emphasis to more active research on saline water conversion. The Committee also expects that State research programs will be coordinated and strengthened. In this connection, the Committee has approved a general provision added by the House requiring the Secretary to designate an office to review and approve all grants and contracts for water research by Interior agencies funded in the bill. This will help avoid fragmentation or duplication of research.

Heritage Conservation and Recreation Service

SALARIES AND EXPENSES

Appropriation, 1978	[1] $17,194,000
Estimate, 1979	[1] 20,978,000
House allowance	17,874,000
Committee recommendation	14,874,000

[1] Includes amounts appropriated in fiscal year 1978 ($5,667,000) and requested for fiscal year 1979 ($5,897,000) for the account "Preservation of Historic Properties".

The Committee recommends an appropriation of $14,874,000, reducing the budget estimate by $6,104,000 and the House allowance by $3,000,000. Funding is detailed below by activity:

Activity	*Budget estimate*	*Committee recommendation*
Planning and research	$4,277,000	$3,877,000
Federal coordination	1,812,000	1,812,000
Technical assistance	2,658,000	2,658,000
Natural heritage preservation	5,600,000	.....
Natural landmark program	734,000	734,000
Historic preservation and special studies	5,897,000	5,897,000
Working capital fund payment	.....	—58,000
Pay cost reduction	.....	—46,000

Appropriations requested for the natural heritage preservation program, both in this account and in the accompanying Land and Water Conservation Fund, have been deleted since the legislative proposals to initiate this program, although espoused by the administration, have never materialized. The Committee feels a natural heritage program needs to be clearly defined before it can be properly funded. The House approved $3,000,000 of the $5,600,000 budget request. The Committee has agreed to House reductions of $62,000 in nationwide planning, $84,000 in water resource studies,

and $254,000 in resource area studies. Funds deleted from resource area studies dealt with the natural heritage program.

The Heritage Conservation and Recreation Service, formerly the Bureau of Outdoor Recreation, was reorganized by the Secretary of the Interior and given larger responsibilities, including the historic preservation program previously administered by the National Park Service. HCRS also administers the Land and Water Conservation and Historic Preservation Funds provided in the two following accounts.

Both HCRS and the Park Service continue to operate separate programs that provide technical assistance to State and local governments, Indian tribes and private concerns. A Committee recommendation that the Secretary consider consolidating these efforts in one agency brought only a reaffirmation of the separate programs. Justification presented to the Committee for maintaining separate programs, however, was not convincing. Accordingly, the Committee is asking the General Accounting Office to review these technical assistance programs—and any others that might exist in the Federal Government—to determine if they cannot be made more effective and less costly through consolidation in one agency.

LAND AND WATER CONSERVATION FUND

Appropriation, 1978	$600,000,000
Estimate, 1979	725,000,000
House allowance	645,841,000
Committee recommendation	645,194,000

The Committee recommends an appropriation of $645,194,000, a reduction of $79,806,000 below the budget estimate and of $647,000 below the House allowance. Allowances approved by the Committee are directed at supporting an effective Federal land acquisition program within existing authorizations and at providing the maximum allowance authorized for State grants. The total recommended appropriation exceeds fiscal 1978 funding by $45,194,000. Recommendations are detailed below:

[In thousands of dollars]

Activity	Budget estimate	Committee recommendation	Increase or decrease in estimate
Assistance to States	$306,070	$318,079	+$12,009
Natural heritage preservation	63,720		—63,720
Subtotal, Assistance to States	369,790	318,079	—51,711
Federal programs:			
Bureau of Land Management:			
King Range Resource Conservation Area	750		—750
Missouri National WSR	500	500	
Rogue National WSR	1,000		—1,000
Organic Act areas	1,000	1,000	
Total, Bureau of Land Management	3,250	1,500	—1,750

[In thousands of dollars]

Activity	Budget estimate	Committee recommendation	Increase or decrease in estimate
Federal programs: —Con.			
Forest Service:			
Flaming Gorge NRA	1,200	1,200	
Hells Canyon NRA	6,000	6,000	
Mt. Rogers NRA	3,500	3,500	
Oregon Dunes NRA	1,746	1,746	
Sawtooth NRA	8,197		—8,197
Spruce Knob-Seneca Rocks NRA	1,528	1,528	
Cascade Head Scenic Research Area	1,300	1,300	
Chattanooga WSR	1,500		—1,500
Clearwater WSR	900		—900
Eleven Point WSR	2,500		—2,500
Flathead WSR	5,719	5,719	
Middle Fork Salmon WSR	600		—600
Rogue WSR	303		—303
Alpine Lakes	15,000	15,000	
Other wilderness	3,000	3,000	
Big Thompson	2,000	2,000	
Composites	17,892	19,842	+1,950
Deficiencies and inholdings	5,000	15,000	+10,000
General reduction		—16,950	—16,950
Total, Forest Service	77,885	58,885	—19,000
U.S. Fish and Wildlife Service:			
Recently authorized areas:			
Chassahowitzka	300	300	
Crab Orchard	170	170	
Great Dismal Swamp	1,000		—1,000
Minnesota Valley	425	425	
Recreation additions:			
Atlantic coastal areas	11,170		—11,170
Cedar Keys	500		—500
Ding Darling	1,375	1,375	
Florida Keys	1,000		—1,000
Hart Mountain	800	800	
National Elk	2,900	2,900	
Pine Island	500		—500
Pinellas	20	20	
Presquille	110		—110
Saint Marks	200	200	
Sevilleta	450	450	
Trempealeau	1,000		—1,000
New refuges:			
Deep Fork	350	350	
Isle Dernieres	1,250	1,250	
Lower Suwanee	1,250	1,250	
Rio Grande	1,100	1,100	
Endangered species:			
Antioch Dunes (Langes metalmark butterfly)	300	300	
Ashmeadows (Warmsprings pupfish)	500	500	
Bat Habitat (Gray bat, $475, Indiana bat, $250)	725	725	
Mio (Kirtland's warbler)	100	100	
Moapa river (Moapa pace)	600	600	
Ocean Springs (Ms. Sandhill crane)	9,700	9,700	
Palo Alto (American crocodile)	115	115	

[In thousands of dollars]

Activity	Budget estimate	Committee recommendation	Increase or decrease in estimate
Federal programs: —Con.			
Endangered species: —Con.			
San Diego (lightfooted clapper rail and Ca. least tern)	6,300	6,300	
Tehachapi Mountains (Ca. condor)	8,500	8,500	
Deficiencies	1,000	1,000	
General reduction		-5,000	—5,000
Total, Fish and Wildlife Service	53,710	33,430	—20,280
National Park Service:			
Appalachian Trail	14,683	14,683	
Big Cypress NP	20,000	20,000	
Bighorn Canyon NM	200	200	
Big Thicket NPres		6,380	+6,380
Buffalo NR	3,508	3,508	
Congaree Swamp NM	16,695	16,695	
Cuyahoga Valley NRA	6,600	6,600	
Delaware Water Gap NRA	700	700	
Gateway NRA	11,963	11,963	
Golden Gate NRA	8,000	8,000	
Gulf Islands NS	5,950	5,950	
Harpers Ferry NHS	950	950	
Indiana Dunes NL	10,809	10,809	
Lowell NHP		3,000	+3,000
Monocacy NB	3,515	3,515	
Obed River WSR	975	975	
Olympic NP	1,775	1,775	
Point Reyes NS	1,500	1,500	
Redwood NP		100,000	+100,000
Rocky Mountain NP	300	300	
Saguro NM	375	375	
Virgin Islands NP	3,275	3,275	
Cape Cod NS	3,392		—3,392
Chattahooche River NRA	45,067		—45,067
C. & O. Canal NHP	7,900	1,000	—6,900
Cumberland Island NS	12,000		—12,000
Manassas NB	8,500		—8,500
St. Croix NSR	10,000		—10,000
Inholdings	10,000		—10,000
Deficiencies	3,000	3,000	
Preauthorization	500	400	—100
Relocation	500	500	
Total, National Park Service	212,632	226,053	+13,421
Total, Federal Programs	347,477	319,868	—27,609
Administrative expenses	7,733	7,247	—486
Total, Land and Water Conservation Fund	725,000	645,194	—79,806

Federal programs.—Generally, the Committee has agreed to House reductions in Federal programs totaling $103,609,000. This denies requested acquisition funds for which authorization is pending but not complete. The only change in these House reductions was the restoration of $1,000,000 of $7,900,000 requested for the

C. & O. Canal National Historical Park. This conforms to the existing authorization.

The recommendation for the Forest Service includes additions of $10,000,000 for a high priority acquisition within the Ocala National Forest and $1,950,000 for the Garner Valley recreation composite in the San Bernardino National Forest, in agreement with the House. An analysis of Forest Service obligations revealed an unacceptably slow expenditure of the $129,231,000 available in fiscal 1978. Only $26,523,000, or about 20 percent, had been obligated by June, and the Committee recommends a general reduction of $16,950,000 to offset a large carryover of funds into fiscal 1979.

The Fish and Wildlife Service has also reported a large unobligated balance 8 months into the current fiscal year—$40,447,000, or about 81 percent of available funds. As a result, a general reduction of $5,000,000 is recommended.

Both the Forest Service and the Fish and Wildlife Service should report to the House and Senate Committees on proposals for allocating the general reductions.

In addition, the Committee recommends a reduction of $14,280,000 for acquisition of "recreation additions" proposed by the Fish and Wildlife Service. Many of these acquisitions are not tied directly to an existing wildlife refuge and several have no relation to recreation. The justification for a large portion of these land purchases is to prevent homebuilding or other possible development. The exact acreage planned for acquisition was not defined by the Service in supplemental justification material provided at the Committee's hearings. While the Committee recognizes the need to preserve important wildlife habitat, it must question the extent of Federal ownership for this purpose. Some areas are already protected by Federal and State environmental controls. Further, the Federal Government already owns more than one-third of the Nation's land and is buying more every year—$313.4 million worth in this account alone. In addition to the Fish and Wildlife Service allowance recommended from this fund, some $33 million is proposed for wetlands acquisition under a separate account. Accordingly, acquisitions under this account that go beyond specifically authorized refuges and endangered species habitat, whether for recreation or for habitat protection, should be carefully selected and thoroughly justified.

Some $5 million of the Atlantic coastal area acquisition funding under "recreation additions" had been targeted for purchase of a State park. Under Committee policy, Federal acquisition funds should not be used to purchase lands already in public ownership. State and local government holdings should be acquired by donation.

For the Park Service, in addition to deleting unauthorized acquisitions, the Committee has not allowed $10 million requested for inholdings. A sizeable portion of the $17 million appropriated for inholdings in fiscal 1978 remains unobligated, and much of it is expected to carry over and should be adequate for fiscal 1979. The new allowance for preauthorization costs has been reduced by $100,000 since similar funding is also provided under the Park Service operating account.

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A major addition to the Park Service request is $100 million for compensation to landowners whose properties were taken by legislation under the Redwood National Park Expansion Act of 1978. A pending supplemental budget request for fiscal 1978 proposes $205 million, and this additional amount would provide the bulk of the estimated $359 million cost of this taking. These funds will be deposited with the Federal district court and permit landowners to receive partial payment pending adjudication of just compensation. It will also achieve substantial savings to the Government on interest costs.

The Committee also recommends an increase of $3 million to initiate land acquisition at the newly authorized Lowell National Historical Park in Massachusetts, and $6,380,000 additional for Big Thicket National Preserve in Texas within the authorized 10 percent ceiling override.

Inholding procedures.—One reason for the lag in obligating Park Service appropriations for inholdings is the confusion and controversy stirred up by the recent adoption of new acquisition procedures. These procedures were adopted by the Park Service without public hearings and without consulting the appropriate congressional committees. Generally, the policy for inholding acquisition has followed the willing buyer—willing seller concept. When these purchase opportunities do not exist, the Park Service proposes a declaration of taking only if unimproved land is to be developed, or if existing improvements are to be changed substantially. The Committee does not necessarily quarrel with the policy concept, but it has rejected its excessively strict application in several cases.

Clearly, the existing inholding procedures of the Park Service should be improved and clarified. In addition, there should be provision for Federal acquisition whenever an inholding parcel is offered for sale.

The Committee will expect the Park Service to prepare revisions in its policy designed to protect the right of the existing landowner to retain his property without harassment so long as he does not initiate any undesirable development out of keeping with the park environment.

Negotiated Park Service inholding acquisitions utilizing lump sum appropriations have been subjected to Committee review and approval whenever they exceed $150,000 in cost. This requirement has proved useful to congressional oversight. With the growth of similar inholding programs in the Forest Service and the Fish and Wildlife Service, the Committee is extending the same review and approval requirements to these agencies. For the Forest Service, this procedure on purchases exceeding $150,000 applies to the recreation composites appropriation; for the Fish and Wildlife Service to the recreation additions funding. All proposed takings require advance approval regardless of cost.

State assistance.—The Committee has concurred in the House denial of $63,720,000 in State grants for natural heritage preservation pending development of a firm legislative proposal and enactment of more specific authorization. Most of the funds have been shifted to State recreation grants, providing a total of $318,079,000, an increase of $12,009,000 over the budget request and $12,385,000

over fiscal 1978. The $51,711,000 reduction in the House allowance is to bring State assistance within the statutory 60 percent maximum of the total fund appropriation under the basic authority.

Inherent in the budget request for State assistance is the reservation of a certain percentage of the appropriation as a contingency fund to be administered by the Secretary. With the rapid growth of State grant funding, the Committee believes this practice may lead to an excessive contingency fund and a $12 million limitation on this reserve has been included in the bill. The Secretary should supply timely reports to the Committee on the use of this funding.

Administrative expenses.—Because of the reduced Federal acquisition program, the Committee has deleted the $486,000 increase requested in the Federal portion of administrative expenses. The recommended allowance provides expenses of $765,000 for Federal programs and $6,482,000 for State assistance.

HISTORIC PRESERVATION FUND

Appropriation, 1978	$45,000,000
Estimate, 1979	45,000,000
House allowance	60,000,000
Committee recommendation	100,000,000

The Committee recommends an appropriation of $100,000,000, an increase of $55,000,000 over the budget estimate and $40,000,000 over the House allowance. Funding at this level, the full amount authorized, would generate approximately 2,500 acquisition and development projects. Estimates indicate that the States have a current capability for 5,250 projects at a cost of some $450 million. In addition to generating State and local matching funds, investment in this program will provide highly labor intensive preservation work while helping to save structures important to our cultural heritage. Committee recommendations are detailed in the following table:

Activity	*Budget estimate*	*Committee recommendation*
Grants-in-aid	$39,050,000	$91,350,000
National Trust for Historic Preservation	4,800,000	6,500,000
Administrative expenses	1,150,000	2,150,000

Within the increased funding, the Committee designates $5,000,000 for maritime heritage preservation. Vessels and other maritime structures represent some of the Nation's most colorful relics but are also the most susceptible to deterioration. The Committee hopes this funding designation will help establish the proper priority for maritime projects.

The Committee urges the Secretary of the Interior to waive the 50–50 matching ratio for survey and planning and implement the 70–30 rate pursuant to Public Law 89–665, sec. 102(c). The Committee believes that in implementing this funding steps should be taken to ensure that no State would reduce its level of contribution as a result of 70–30 funding in order to assure that the increased funding will accelerate State, local and private efforts to identify historic resources. The Committee recommends that 70–30 funding be implemented at this time to assure a more comprehensive State survey of historic properties and a more complete National Register of Historic Places.

The Committee is disturbed that no clear procedure for allocating fiscal 1979 grants-in-aid has been adopted by HCRS. Several plans and formula changes were under consideration, but no clear allocation system was available during the Committee's budget hearings and afterward. In view of the sharp increase recommended for this grant program, the Committee will expect HCRS to develop allocation methods and procedures as quickly as possible, certainly before September 30, 1978. Any substantial change in the 1978 apportionment process should be submitted in advance to the House and Senate Committees on Appropriations for review and approval.

A Secretary's discretionary fund amounting to 5.4 percent of the total grant funding, or $2,005,000, was established as part of revised allocation procedures in the current year. The Department has indicated plans to maintain this reserve at about 5 percent of grant funding in fiscal 1979. Because of the rapid growth of this program, the Committee believes a discretionary reserve of $3 million is more than adequate and has included a limitation to that effect in the bill. A portion of this reserve, $1 million, is to be a matching grant to the Trust for the endangered properties fund. The balance will be utilized as challenge grants to States submitting creative and innovative proposals for historic preservation activities. As with the contingency reserve under the Land and Water Conservation Fund, these grants should be committed only with the prior approval of the Secretary.

The Committee recommends deletion of House bill language prohibiting grants for renovation of State and local government buildings still in active use and requiring at least 60 percent of all grants to be restricted to neighborhood preservation and conservation in historic districts. Although the Committee does not disagree with the general intent of these provisions it fears the restriction cannot be fairly and effectively applied in all states and localities. In lieu of inflexible restrictions in law, the Committee calls upon HCRS to prepare for approval by the House and Senate Committees on Appropriations proposed regulations designed to achieve the intent of the House provisions, that is, historic preservation grants should not be used to supplant or supplement State and local government building maintenance, and they should be directed whenever feasible and desirable to rehabilitating decaying but historic urban areas. With the substantial increase recommended for historic preservation grants, it is essential that the sanctity of the program be maintained and that these funds be effectively channeled into legitimate historic preservation projects for the maximum public benefit.

U.S. Fish and Wildlife Service

RESOURCE MANAGEMENT

Appropriation, 1978	$169,279,000
Budget estimate, 1979	191,937,000
House allowance	196,695,000
Committee recommendation	194,508,000

The Committee recommends an appropriation of $194,508,000, an increase of $2,571,000 in the budget request and a reduction of

$2,187,000 in the House allowance. Allocations by activity are detailed below:

Activity	Budget estimate	Committee recommendation
Habitat preservation:		
Environmental contaminant evaluation	$11,540,000	$10,058,000
Resource development planning	14,788,000	13,523,000
Biological services	13,309,000	12,359,000
Cooperative units	3,754,000	4,854,000
Wildlife resources:		
Migratory birds	52,848,000	52,363,000
Mammals and nonmigratory birds	13,097,000	13,497,000
Animal damage control	11,757,000	17,782,000
Interpretation and recreation	12,531,000	12,531,000
Fishery Resources	32,427,000	33,662,000
Endangered species	19,442,000	18,000,000
Administration	6,444,000	6,000,000
Payment to working capital fund		—108,000
Pay cost reduction		—613,000

Habitat preservation.—The Committee recommendation for habitat preservation includes sufficient funding to maintain wildlife environmental programs at the fiscal 1978 level, $1,000,000 additional to cover operating cost increases for cooperative wildlife research, and an increase of $100,000 to initiate a cooperative wildlife unit at the University of Georgia. The Committee continues to be concerned that the environmental review and protection programs in this activity tend to overlap responsibilities of the Environmental Protection Agency and other Interior Department agencies. These programs have experienced rapid growth in recent years, and the Committee has not approved nearly $4,000,000 in additional expansion requested for fiscal 1979.

Wildlife resources.—The Committee has concurred in House reductions totaling $485,000 in the migratory birds program but has reduced a $500,000 increase for marine mammal protection grants by $100,000 to conform to the authorization ceiling. Increases totaling $6,025,000 are recommended for the animal damage control program, to be allocated as follows:

Predator control operations	+$4,000,000
Research:	
Pine vole damage to fruit orchards	+1,300,000
Blackbird damage to sunflower crops	+425,000
Lure crops for migratory waterfowl	+300,000

The Committee is aware that predator control programs for protection of western livestock are undergoing yet another Secretarial review. Unfortunately, a series of policy studies over recent years has not produced any noteworthy improvements and western cattle and sheep herds continue to suffer unacceptable losses. The Committee hopes that a realistic and effective policy can be developed in this difficult area. Meanwhile, the increase provided for operations is designed to sustain a needed level of Federal assistance.

The Service should consider the research resources of the North Dakota State University in conducting the blackbird control studies.

The Committee recognizes that the U.S. Fish and Wildlife Service and the citizens of southwestern Oklahoma have been working together to assure multiple use of the Wichita Mountain Wildlife Refuge. The Committee recommends that the management of the

Wichita Mountain Wildlife Refuge be given the flexibility to utilize its fiscal year 1979 appropriations for recreation facilities if the U.S. Fish and Wildlife Service determines that improved recreation at the refuge is appropriate.

Fishery resources.—A total of $1,035,000 in additional operating support for hatcheries and research facilities under fishery resources is to be allocated as follows:

White River NFH	+$65,000
Warm Springs NFH	+100,000
White Sulphur Springs NFH	+20,000
Leetown fishery research lab	+500,000
LaCrosse fishery research lab	+350,000
Dale Hollow NFH	+100,000
Erwin NFH	+100,000

Endangered species.—The Committee recommendation for endangered species includes a reduction of $1,442,000 in the $3,877,000 increase requested for planning and coordination. The decrease allows one-half the requested increase for consultation and assistance. The Committee feels the $7,020,000 allowance for planning and coordination is more than sufficient to meet the Service's increased consultation needs.

The total recommended for endangered species also includes $3,369,000 for species and habitat management, $4,611,000 for research and enforcement, and $3,000,000 for grants-in-aid.

The Committee has agreed with House reductions totaling $1,165,000 for administration, working capital fund, and pay cost annualization.

Within available funds, the Committee directs that up to $50,000 be provided for a special agent for law enforcement in West Virginia.

CONSTRUCTION AND ANADROMOUS FISH

Appropriation, 1978	$68,660,000
Estimate, 1979	89,943,000
House allowance	96,153,000
Committee recommendation	96,479,000

The Committee recommends an appropriation of $96,479,000, an increase of $6,536,000 above the budget estimate and $326,000 above the House allowance. Recommended allowances are displayed in the following table:

Activity	*Budget estimate*	*Committee recommendation*
Development of refuges	$26,273,000	$28,517,000
Restoration of refuge facilities	48,759,000	48,759,000
Hatchery construction	9,600,000	14,764,000
Fishery research facilities	1,700,000	2,200,000
Savings and slippage	.....	−1,372,000
Anadromous fish	3,611,000	3,611,000

Recommended increases in the budget request are for the projects listed below:

White River NFH	$915,000
Iron River NFH	2,000,000
Wolf Creek NFH	713,000
Bowden NFH	144,000
White Sulphur Springs NFH	192,000
New London NFH	1,200,000
National Fishery Research Center, Wash	500,000
Wichita Mt. Refuge, Okla	704,000
DeSoto Bend NWR, interpretive center for steamboat Bertrand	1,540,000

The amount recommended for the New London hatchery in Minnesota is for phase II construction of a visitor center, aquarium, and auditorium structure, including a library and alternate energy efficient package, that has been designated by the Secretary as the Hubert H. Humphrey Interpretive Education Center.

The funding for Wichita Mountain Refuge is to replace flood damage to the Mt. Scott road.

The Committee is in agreement with the House reduction of $1,372,000 to be realized from program slippage and anticipated project savings. This reduction is directed at the entire construction program of the Sevice, including unobligated funds from prior years.

MIGRATORY BIRD CONSERVATION ACCOUNT

(Definite, Repayable Advance)

Appropriation, 1978	$10,000,000
Estimate, 1979	10,000,000
House allowance	10,000,000
Committee recommendation	10,000,000

The Committee recommends an appropriation of $10,000,000, the same as the budget estimate and the House allowance, for acquisition of land for refuges through advances to be repaid from future year receipts. This funding, together with estimated receipts from the sale of duck stamps, will allow acquisition of more than 65,000 acres of wetland habitat. In the event that proposed legislation increasing the duck stamp fee is enacted, the acreage to be acquired will be increased to nearly 84,000 acres.

DEVELOPMENT AND OPERATION OF RECREATION FACILITIES

Appropriation, 1978	$150,000
Estimate, 1979	150,000
House allowa..ce	150,000
Committee recommendation	150,000

The Committee recommends an appropriation of $150,000, the same as the budget estimate and the House allowance. Recreational user fees on selected areas managed by the Fish and Wildlife Service provide the source of funding for this account. Revenues for this account will be used to support increased collections in new areas and support for expanded public recreational use.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Appropriation, 1978	$323,152,000
Estimate, 1979	363,714,000
House allowance	382,317,000
Committee recommmendation	367,631,000

The Committee recommends an appropriation of $367,631,000, an increase of $3,917,000 over the budget estimate and a $14,686,000 reduction below the House allowance. The following activity table details the recommended allowances:

Activity	*Budget estimate*	*Committee recommendation*
Park management	$346,756,000	$352,481,000
Forest fire suppression and rehabilitation	1,200,000	1,200,000
Executive direction	6,037,000	6,000,000
Park, recreation and wilderness planning	4,710,000	4,386,000
Cooperative programs	4,208,000	3,208,000
Statutory or contractual aid for other activities	803,000	1,852,000
Payment to working capital fund	.....	—155,000
Pay cost reduction	.....	—991,000
National visitors center	.....	—350,000

Park management.—Although the Committee recommends increases totaling $5,725,000 in the park management activity—more than $30 million over current funding—the allowance is $17,651,000 below the budget additions approved by the House. The Committee does not quarrel with the intent of the House add-ons but feels spending increases for parks need to be constrained in this period of rampant inflation. Further, the Committee is mindful of still more park expansion proposals now awaiting congressional authorization. According to estimates furnished to the Committee by the Department, these new or expanded park units will cost more than $1.5 billion to acquire and develop. Estimated annual operating costs can go as high as $4.8 million. Those figures do not include the massive park expansion that is being proposed in Alaska. The Committee recommendation is more than adequate to meet current needs for new and existing park areas. The Park Service must improve its own program management, meanwhile, to make its activities more effective and less costly. Committee changes in the budget request for park management are detailed below:

Management of park areas	+$599,000
Concessions management	+300,000
Interpretive services	+850,000
Visitor protection and safety	+600,000
Maintenance	+3,876,000
Information publications	—500,000

Recommended increases include $1,299,000 to begin operations at newly authorized Lowell NHP, Mass.; $90,000 for community law enforcement assistance, Harpers Ferry NHP, W. Va.; $174,000 for improving the Shrine of the Ages, Grand Canyon NP, Ariz.; and additional support for the Indiana Dunes NL research resource management program. No additional helicopter services are included in the increase for visitor protection. The information publications reduction will help the Park Service confine its efforts mainly to existing park areas. Public information needs can then be served effectively within the $2,432,000 allowance.

Park, recreation and wilderness planning.—Reductions recommended in park, recreation and wilderness planning include $60,000 for new area studies and $264,000 for land use studies. A primary justification for the $464,000 land use studies request was the need for preacquisition work in proposed new areas. This work is now authorized and funded under the Land and Water Conservation Fund.

Other activities.—Under cooperative programs the Committee has recommended a $1,000,000 reduction in the $2,356,000 requested mainly for preauthorization work in the 42 million acre park expansion area proposed by the administration in Alaska. The bulk of preauthorization planning has already been completed and planning funds are abundantly provided elsewhere in the Park Service budget. The Committee allowance is sufficient to continue, in cooperation with the Bureau of Indian Affairs, validation of historic and archeological sites that will be transferred to Alaska Native corporations.

Increases recommended under statutory or contractual aid include $549,000 for operation of the Lowell Historic Canal Commission and $500,000 for assistance payments to Grand Canyon unified school district.

The recommended allowance for the National Visitors Center restores all but $350,000 of the $4,709,000 decrease approved by the House. Although the administration has proposed transferring the bulk of the Union Station operation in the District of Columbia to the Department of Transportation, the Park Service is required to continue leasing and operating the station as a visitors center until Congress authorizes any change.

CONSTRUCTION

Appropriation, 1978	$161,442,000
Estimate, 1979	121,328,000
House allowance	111,775,000
Committee recommendation	130,391,000

The Committee recommends an appropriation of $130,391,000, increasing the budget estimate by $9,063,000 and the House allowance by $18,616,000. Both the Committee recommendation and the House allowance involve considerable changes in the budgeted program.

House changes, involving increases of $30,354,000 and decreases of $39,907,000, were based on a report of the House Appropriations Committee investigative staff that found fault with Park Service methods for planning and cost estimating. The investigative report also indicated many facilities had been overdesigned or overbuilt. Many of the House changes resulted from reestimates of the Park Service after the agency reviewed its requests. The Committee has agreed to those changes. The House also deleted or modified several projects for lack of adequate authorization ceiling. The Committee has agreed to those changes, too, with certain modifications. Other House decreases stemmed from a judgment that Park Service estimates were not based on proper planning. The Committee agreed with most of these reductions but did restore or modify several and

add two new projects. Finally, the House imposed a $10 million general reduction based on unobligated balances, savings and slippages. The Committee could not substantiate a reduction of more than $3 million. Senate changes involve increases of $31,518,000 and decreases of $22,455,000. Budget increases and restoration of House decreases are detailed below:

Recommended increases in budget estimates

Advance planning	$2,688,000
Bunker Hill monument rehabilitation	271,000
Cumberland Gap NHP, road relocation planning	1,100,000
Cuyahoga Valley NRA, planning and development	500,000
Fort Vancouver NHS project planning	144,000
Glen Canyon HRA:	
Wahweap area sewage lagoon	300,000
Office facility planning	243,000
Grand Canyon NP utilities and roads	30,000
Great Smoky Mountains NP sewage disposal	89,000
Haleakala NP summit road construction	397,000
Harpers Ferry NHP historic and transportation planning	163,000
Independence Hall NHS grounds development	708,000
Indiana Dunes NL—Bailly contact station	26,000
Jefferson National Expansion Memorial landscaping	1,655,000
Lowell NHP development	3,462,000
Manassas NBP visitor center rehabilitation	44,000
Mount Rainier NP sewage and road repairs	422,000
Natchez Trace Parkway:	
Section 3B, Miss	15,000,000
Section 2-D-3, Ala	3,500,000
Natchez and Nashville area planning	500,000
Rock Creek Park nature center	30,000
Sewall-Belmont House NHS renovation	150,000
Theodore Roosevelt NMP sanitary dump station	96,000

House reductions restored

Andrew Johnson NHS	$249,000
C. & O. Canal NHP	89,000
Cape Cod NS	278,000
Carlsbad Caverns NP	70,000
Channel Islands NM	716,000
Cowpens NB	2,709,000
Everglades NP	60,000
Ft. Davis NHS	98,000
Gila Cliff Dwellings NM	131,000
Grant-Kohrs Ranch NHS	56,000
Gulf Islands NS	4,088,000
Harpers Ferry NHP	1,438,000
Hopewell Village NHS	618,000
Jefferson National Expansion Memorial	544,000
John Day Fossil Beds NM	100,000
National Capital Region	210,000
Padre Islands NS	308,000
Slippage and savings	2,000,000
Reduction due to unobligated balances	5,000,000

The Committee also recommends deletion of $1,310,000 requested for preservation of Fort Pickens to bring the total recommended for Gulf Islands National Seashore within the authorization ceiling.

The increase of $3,462,000 for Lowell National Historic Park includes $1,109,000 to the Park Service for initial rehabilitation schematics of historic structures, and $2,353,000 to the Lowell

Historic Canal Commission for land acquisition and initial rehabilitation work.

The Committee shares the concern expressed by the House Committee over the reservation and use of a contingency assessment on each project. The Park Service will be expected to report to both committees in advance of the next budget cycle on practices and procedures for expending contingency funds, including specific outlays in fiscal 1977 and 1978. The Service should also report on the use of lump sum funds for the same fiscal years.

Within available funds, the Committee directs that $346,000 be provided to complete development of the Fort Scott Historic Area, when authorized, and that $600,000 be used for road repairs in Yellowstone NP.

PLANNING, DEVELOPMENT, AND OPERATION OF RECREATION FACILITIES

(Indefinite, Special Fund)

Appropriation, 1978	$14,000,000
Estimate, 1979	15,478,000
House allowance	15,478,000
Committee recommendation	15,478,000

The Committee recommends an appropriation of $15,478,000, the same as the budget estimate and the House allowance. Entrance fees collected at certain units of the Park system provide for this account, which will be used for fee enhancement, visitor transportation systems, exhibits, and repair and construction of recreational structures.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Appropriation, 1978	$3,750,000
Estimate, 1979	4,066,000
House allowance	4,055,000
Committee recommendation	4,055,000

The Committee recommends an appropriation of $4,055,000, $11,000 below the budget request and the same as the House allowance, for operations and maintenance of the nonperforming arts areas and functions of the Kennedy Center.

Any changes in agreements between the Park Service and the Kennedy Center that might serve to increase direct Federal support should be submitted to the Committee for review and approval.

ENERGY AND MINERALS

Geological Survey

SURVEYS, INVESTIGATIONS, AND RESEARCH

Appropriation, 1978	$363,547,000
Budget estimate, 1979	398,363,000
House allowance	419,689,000
Committee recommendation	395,127,000

The Committee recommends an appropriation of $395,127,000, reducing the budget request by $3,236,000 and the House allowance

by $24,562,000. Recommended changes in the budget estimates, including increases of $2,850,000 and reductions of $6,086,000, are detailed below by activity:

Activity	Budget estimate	Committee recommendation
Topographic surveys and mapping	$61,052,000	$63,052,000
Geologic and mineral resource surveys and mapping	130,153,000	128,303,000
Water resources investigations	88,795,000	87,092,000
Conservation of lands and minerals:		
OCS activities	48,520,000	48,220,000
Federal and Indian lands	34,304,000	34,704,000
Land information and analysis	20,078,000	20,078,000
General administration	3,696,000	3,696,000
Facilities	11,765,000	11,765,000
Pay cost annualization		−1,131,000
Working capital fund payments		−152,000
Travel		−500,000

In its effort to control spending increases, the Committee felt compelled to reduce or delete unbudgeted House add-ons totaling $22,609,000. Most of the House increases were well-justified and directed at accelerating mapping, resource surveys and other programs, either to reduce backlogs or to anticipate needs arising from recent developments. While supportive of these goals, the Committee believes some needs must be deferred to offset energy-related increases. In other cases the Committee believes requirements not anticipated in the budget formulation should be at least partially absorbed by the Survey. Those that cannot should be justified in supplemental appropriation requests.

Topographic surveys and mapping.—The increase provided for topographic surveys and mapping is for quadrangle mapping and revision, including $500,000 to continue map inventory control improvements begun in fiscal 1978 and $1,500,000 to reduce the growing backlog in mapping revisions.

Geological and mineral resource surveys and mapping.—Reductions totaling $1,850,000 are recommended under the geological and mineral resource activity as follows:

Earthquake hazards reduction	−$200,000
Land resource surveys	−650,000
Energy resource surveys	−1,000,000

In view of the rapid expansion in the earthquake hazards reduction program in the current year, the Committee recommmenas that $200,000 of the requested $746,000 increase for regional hazard studies be absorbed.

Under land resource studies, the Committee recommends $750,000 of the $1,000,000 requested to initiate climate change studies. A $400,000 reduction in the request for environmental aspects of energy is aimed at eliminating duplication of other agencies' studies in this area.

Under energy resource surveys, the Committee recommends a reduction of $250,000 in the $1,000,000 increase requested for uranium/thorium assessment and a $750,000 decrease in the $2,000,000 increase proposed for geothermal studies. If needed, the full increases can be funded by reductions in lower priority studies.

The Committee has deferred a $3,600,000 increase approved by the House for mineral resource surveys for National Forest lands ex-

pected to be identified for wilderness potential under the current roadless area evaluation study. The Survey acknowledged that its needs cannot be reliably estimated until the Forest Service completes the review in fiscal 1979. The Committee expects that any additional mineral survey needs can be partly absorbed and the balance justified in a supplemental appropriation request.

Water resource investigations.—Net reductions of $1,703,000 are recommended for water resources studies, comprised of an increase of $1,397,000 in the Federal program and a $3,100,000 decrease in critical national water problems. The Federal program increase involves $197,000 to restore a budget cut in basic data collection and $1,200,000 for continuing development of an airborne laser profiling system for topographic mapping. The $1,000,000 portion of fiscal 1978 funds should now be obligated for the profiler development. Under critical national water problems, the Committee reduction applies to the $5.1 million increase budgeted for nuclear energy hydrology. The Survey proposed to increase its ongoing low-level nuclear waste studies by $200,000 and initiate high-level investigations at a cost of $4,900,000. The Department of Energy has budgeted a $52,000,000 program for its own nuclear waste disposal studies, with $8,000,000 of it planned for reimbursement to the Geological Survey. The Committee believes the Survey's request should be held to a $2,000,000 increase—providing $4,095,000 in total—to encourage closer coordination and cost savings.

The Committee has not agreed to House budget increases of $2,000,000 for improved automated data equipment and $4,800,000 for hydrologic studies in support of renewed coal leasing. The data equipment increase would initiate a 5-year, $10,500,000 program in satellite telemetry for which the Committee will require much more comprehensive justification, including cost-benefit analyses. While the Committee agrees with the House that more funding will be needed for coal hydrology, some of the cost should be absorbed and the balance should be justified in a supplemental appropriation request.

In view of pressing energy-related funding demands, the Committee has not approved the House increase of $3,712,000 for Federal-State water resource programs but does recommend the budgeted $800,000 increase.

Conservation of lands and minerals.—The Committee recommends a $300,000 reduction in Outer Continental Shelf oil and gas activities and a $450,000 decrease in Federal and Indian lands geothermal, oil shale and nonenergy leasing. This is offset by an $850,000 increase, in agreement with the House, to classify and evaluate tracts that are subject to renewed coal leasing. The total recommended for conservation of lands and minerals increases current funding by $5,438,000.

Land information and analysis.—The Committee recommends the budget request for land information and analysis, an increase of $1,912,000 over fiscal 1978 funding. House increases totaling $750,000 for the earth resources observation system and land resource data, although worthy, have been foregone in favor of higher priority needs.

EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA

Appropriation, 1978	$209,541,000
Estimate, 1979	185,548,000
House allowance	216,048,000
Committee recommendation	251,998,000

The Committee recommends an appropriation of $251,998,000, increasing the budget estimate by $66,450,000 and the House allowance by $35,950,000. The following table displays the recommended allowances by activity:

Activity	*Budget estimate*	*Committee recommendation*
Evaluation and assessment:		
Exploratory drilling	$154,195,000	$184,695,000
Geophysical exploration	23,165,000	23,165,000
Geologic investigations and evaluations	4,040,000	4,040,000
Barrow area exploration and development:		
Operation and maintenance	1,389,000	1,389,000
Exploration and development	382,000	36,332,000
Environmental restoration	2,377,000	2,377,000

The Committee is in agreement with the House increase of $30,500,000 for continuing exploration activities at the level contemplated in the original Navy plan for the National Petroleum Reserve in Alaska. The budget proposal contemplates winding down exploration in fiscal 1979 and no drilling at all in fiscal 1980 pending an evaluation of the resource potential. In the Committee's judgment, it would be costlier in the long run to interrupt exploratory drilling because of termination costs and the long leadtime needed to ship material into this remote Arctic wilderness.

An increase of $35,950,000 is recommended to continue development in the Barrow area gas fields. Natural gas is the only local fuel available to the remote arctic community. Water intrusion and dependence on marginal wells have weakened the reliability of production in the south field, where the Survey estimates recoverable gas could be depleted in 5 years at current production rates. Although the Navy has discovered a new field about 10 miles east of the south Barrow field, the budget request would only fund continued operations at south Barrow and custodial services at east Barrow. The Committee believes continued development at east Barrow is essential to meet the requirements of the Naval Petroleum Reserves Act of 1976 making the Secretary responsible for supplying gas to Barrow and neighboring Federal installations.

The Committee has included language in the bill clarifying the authority of the Geological Survey to extend its environmental restoration activities associated with the National Petroleum Reserve in Alaska to the adjacent Gubic and Grandstand areas. Litter and debris at these sites are the result of Federal activities, and the Committee feels they should be included in the ongoing cleanup effort.

BUREAU OF MINES

MINES AND MINERALS

Appropriation, 1978	$135,270,000
Estimate, 1979	121,329,000
House allowance	132,667,000
Committee recommendation	118,058,000

The Committee recommends an appropriation of $118,058,000, a decrease of $3,271,000 below the budget estimate and $14,609,000 below the House allowance. The recommendation is detailed in the following table:

Activity	*Budget estimate*	*Committee recommendation*
Metallurgy research	$28,645,000	$28,345,000
Mining research	57,431,000	57,131,000
Mining environmental research	14,616,000	12,257,000
Data collection and analysis	15,327,000	15,327,000
Mineral land assessments	5,310,000	5,310,000
Pay cost and annualization	.....	—204,000
Working capital fund payments	.....	—108,000

The reduction under metallurgy research applies to expansion of basic research into recovery of accessory mineral recovery. These accessory elements are incidental to the main output of the mineral process. While the potential technology could have pollution control benefits, the Committee feels that savings can be achieved at the basic research stage. Accordingly, the proposed increase has been reduced by roughly one-third.

The recommended level for mining research denies the requested increase of $300,000 for basic research for demonstrating in-situ mining alternatives. The base funding of $2.3 million is considered sufficient.

The recommendation for mining research also deletes House health and safety research increases totaling $9,549,000. The budget request for mine health and safety research sustains a $10,000,000 increase provided by Congress in fiscal year 1978. The Committee feels the budgeted level is adequate to continue this important work in reducing fatalities and improving health and safety.

The Committee recommends reductions totaling $2,359,000 under mining environmental research. These include $1,299,000, in agreement with the House, for the innovative mining systems program; $500,000 for expanded research under environmental control technology; and $560,000 for land use planning studies under mined land reclamation technology.

The full budget estimate for mineral land assessments is recommended, deleting a House increase of $3,400,000 related to work in support of wilderness evaluation of roadless areas by the Forest Service. As noted earlier, the Forest Service evaluation will not be complete for several months and no reliable estimate of mineral assessment costs is now available. Should circumstances later justify the need for accelerated mineral assessments, the Committee will consider supplemental funding for both the Bureau of Mines and the Geological Survey. Within the amount available for mineral land assessments, $600,000 should be used to conduct important supplemental field studies of proposed Alaska land withdrawals,

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including areas considered for 7 national wildlife refuges and 8 national parks and preserves.

In agreement with the House, the Committee recommends reductions of $204,000 in pay costs and $108,000 in working capital fund payments.

The House Committee called for Bureau of Mines studies on the need for more mine dust control research and for coal miner training. Both studies were to produce recommendations for new or expanded programs jointly supported by government and industry. The Bureau is already involved in dust control studies, and $3,250,000 is budgeted for this work in fiscal 1979. Any additional high priority needs that can be identified should receive consideration in the normal budgetary process. The Committee does agree, however, that active participation by industry should be encouraged. Training of coal miners, primarily an industry responsibility, more properly falls within the jurisdiction of the Labor Department's Mine Safety and Health Administration. MSHA, in consultation with the Department of Energy, could most effectively address the possible need for Federal participation or stimulus.

HELIUM FUND

(Permanent Contract Authority)

Appropriation, 1978	
Estimate, 1979	$47,500,000
House allowance	
Committee recommendation	

The Committee recommends rescission of permanent contract authority for fiscal year 1979 for the helium fund, in agreement with the House. Current helium reserves would provide a supply equal to nearly 100 years of current domestic consumption.

The Bureau of Mines conducted a study of the helium situation in conjunction with the Department of Defense, the Department of Energy, and the National Aeronautics and Space Administration, which concluded that the purchase of helium for storage by the Federal Government is unwise. Options which would encourage the conservation of helium, such as tax incentives and efforts to reduce venting, are under further consideration by the study group. The Committee looks forward to the results of this segment of the study and any recommended courses of action that the Bureau may forward.

Office of Surface Mining Reclamation and Enforcement

REGULATION AND TECHNOLOGY

Appropriation, 1978	$30,880,000
Estimate, 1979	[1] 43,661,000
House allowance	39,344,000
Committee recommendation	48,944,000

[1] Includes amendment of $5,900,000 contained in S. Doc. 95-106 not considered by House.

The Committee recommends an appropriation of $48,944,000, increasing the revised budget estimate by $5,283,000 and the House

allowance by $9,600,000. Comparative allocations by activity are tabulated below:

Activity	*Budget estimate*	*Committee recommendation*
State regulatory program grants:		
Interim enforcement	$13,400,000	$13,400,000
Permanent program development	4,000,000	4,000,000
Permanent program operations	1,500,000	1,500,000
Federal regulatory programs:		
Development of permanent programs	4,107,000	4,007,000
Federal inspection and enforcement	13,632,000	13,382,000
Technical support	7,022,000	6,872,000
Mineral institutes:		
Program grants	.....	2,200,000
Research grants	.....	3,300,000
Program direction	.....	300,000
Pay cost annualization	.....	—17,000

A budget amendment submitted in early June proposed increasing State interim enforcement grants from $7,500,000 to $13,400,000 to meet increased needs not anticipated in the original budget development. The Committee has recommended the full revised estimate and concurrently has approved a reprograming for similar adjustments in the current fiscal year.

Reductions totaling $500,000 are recommended for Federal regulatory programs, mainly to account for program slippage resulting from the late arriving fiscal 1978 startup appropriation.

Although $5,700,000 was appropriated to initiate the mineral institutes program in the current year, no funding was budgeted for fiscal 1979. The Committee recommends $5,800,000 to continue this State research and training program in the form authorized by Surface Mining and Reclamation Act of 1977. The House approved $1,600,000 and its Committee report recommended confining the program to regional centers, or "centers of excellence," in Pennsylvania, Mississippi, and Utah. Regional direction for the program may be beneficial, but the Committee cannot agree to limiting a program already being initiated in 20 States to three centers. The Committee continues to support designated mineral institutes as provided in section 301 of the authorizing act with grants available in each State with a qualified and designated college or university.

ABANDONED MINE RECLAMATION FUND

Appropriation, 1978	$36,647,000
Estimate, 1979	70,861,000
House allowance	77,851,000
Committee recommendation	78,451,000

The Committee recommends an appropriation of $78,451,000, increasing the budget estimate by $7,590,000 and the House allowance by $600,000. The following table details the recommended allowances:

Activity	Budget estimate	Committee recommendation
State reclamation program grants	$10,000,000	$10,000,000
Federal reclamation programs:		
Fund management	8,690,000	8,690,000
Interior reclamation projects	30,835,000	33,835,000
Rural lands reclamation	10,128,000	10,128,000
Technical support	1,208,000	808,000
Small operator assistance	10,000,000	15,000,000
Pay cost annualization	.....	−10,000

An increase of $3 million is recommended to expand the Federal program to reclaim mined lands, with proper emphasis on those areas that pose immediate hazards to public health and safety. The House approved a $7 million increase and earmarked $16 million of the total available funding to coal area projects in Pennsylvania and Illinois. The Committee cannot responsibly agree to confining nearly one-half the available Federal reclamation funds to portions of only two States. Instead, as proposed in the President's budget, initial Federal reclamation efforts should be concentrated on hazardous areas that are identified in all eligible States. Efforts should be directed primarily at dangerous wastebanks and mine impoundments, subsidence in urban areas, and mine drainage that threaten water supplies. Until a basic inventory of reclamation needs is complete, OSM has already moved to identify those areas that meet the "extreme danger" criteria. States and other Federal agencies are reviewing past and current studies so that the most urgent projects can be targeted. The Committee will expect this process to channel reclamation funds impartially to the most pressing needs.

The Federal reclamation program should be administered by OSM with assistance from the Bureau of Mines and other appropriate agencies.

An additonal $5,000,000 is included for assistance to small mine operators, providing a total of $15,000,000. Any further needs that might be identified within the pending authorization increase can be considered in a supplemental appropriation.

The Committee has deleted $400,000 of the technical support request that provides for a cataloging and data center. The Committee cannot support establishment of such a center until the required needs assessment report is submitted to the House and Senate Appropriations Committees. If the center is later approved, available funds should be used to begin its establishment.

In order to avoid a possible conflict between State and Federal officials over implementation of a State abandoned mines reclamation program in North Dakota, and in order to encourage speedy adoption of required regulatory programs, the Committee directs that $250,000 from the program grants funds be earmarked for use in North Dakota subject to compliance with regulatory requirements in section 405(e) of Public Law 95–87. This funding is to cover the full cost of State development of a reclamation program.

INDIAN AFFAIRS

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Appropriation, 1978	$685,555,000
Budget estimate, 1979	761,256,000
House allowance	791,092,000
Committee recommendation	755,087,000

The Committee recommends an appropriation of $755,087,000, reducing the budget estimate by $6,169,000 and the House allowance by $36,005,000. Recommended allowances are detailed below by budget activity:

Activity	*Budget estimate*	*Committee recommendation*
Education	$271,041,000	$264,441,000
Indian services	194,656,000	213,809,000
Economic development and employment	84,719,000	83,835,000
Natural resources	70,303,000	63,234,000
Trust responsibilities	42,364,000	36,114,000
General management and facilities	98,173,000	97,511,000
Siletz tribe	.....	450,000
Common program services	.....	—2,788,000
Pay cost annualization	.....	—1,302,000
Working capital fund	.....	—217,000

Program management.—The Bureau's operating budget underwent intensive analysis this year as the Committee followed up on a series of program investigations conducted at its request by the General Accounting Office. These investigations largely substantiated the Committee's concern that poor program management by the BIA was undercutting Indian services and slowing the implementation of congressional reforms and policies. In nearly every program area singled out by the Committee for investigation, GAO auditors found serious and sometimes critical shortcomings. The Department and the Bureau did not dispute most of the GAO findings and have outlined plans to follow many of the recommended corrective measures.

This is not the first time that outside inquiries have turned up deficiencies in BIA operations, however. In the past there was little or no effort to correct these continuing problems, establishing a long history of bureaucratic indifference and resistance to change. The result has been a continuing failure to deliver adequate services to the Indian people despite increased funding provided by Congress.

The Committee will not allow this situation to persist. It will expect the BIA to follow the accepted recommendations developed by GAO, and it will look to the Department and the assistant secretary for Indian affairs for the leadership essential to meaningful and lasting reform.

The Committee at this time is not attempting to implement all of the recommendations developed by GAO. Action has been deferred in several instances only because new leadership in the Department and the BIA is currently moving to reorganize the Bureau so that many persistent management problems can be dealt with more effectively. The Committee will expect close communications with the Department on progress being made to achieve these goals.

Steps can be taken later to require action on any GAO recommendations that the Committee or the GAO feels have not been addressed properly.

The Committee wishes to commend GAO as an organization and its personnel individually for the fine work performed in connection with the effort to make Indian programs more effective. In order to have the GAO findings early enough to aid in fiscal 1979 appropriation decisions, the Committee asked for 10 separate investigations to be completed by February 15, 1978—leaving little more than 7 months for this work. GAO set up several investigative teams to carry out this difficult mission, and all reports on findings and recommendations were in the Committee's hands on or before the deadline. Despite the need for haste, the reports were professional, accurate, and constructive. They will be of great value to the Department and the BIA as well as to Congress in assuring more responsible and effective management of Indian programs.

Spending controls.—Funding recommendations developed by the Committee are based in part on GAO findings and are aimed at tightening up program management. The Committee does not believe that incompetence and mismanagement should continue to be rewarded with ever increasing appropriations. Whenever budget requests have not been properly justified, either in the BIA budget submission or in response to questions at the Committee hearings, they have been reduced or denied. Any increases proposed for programs with serious deficiencies, budgeted or otherwise, have also been deferred. In some instances the BIA will need additional funding to strengthen program management, but the Committee does not intend to recommend such increases until they have been reliably justified. Experience has proven repeatedly that increased funding for the Bureau does not necessarily solve problems, improve services, or even provide substantial betterment of Indian welfare.

It should be emphasized that appropriations for Indian programs have been increasing dramatically over the past few years. That growth in funding has been so rapid, in fact, that the Committtee must question the effectiveness of Federal spending on behalf of native Americans. This year the total annual appropriation to the BIA, as recommended by the Committee, will exceed the $1 billion mark. Spending for Indian services elsewhere in the Federal Government will also exceed $1 billion for the first time, according to latest estimates. This is more than quadruple the same spending as 10 years ago, as detailed in the following table:

FUNDING OF INDIAN PROGRAMS

[In thousands of dollars]

Federal agency	Fiscal year 1969 actual [1]	Fiscal year 1979 estimated
Department of Agriculture	$18,624	$11,000
Department of Commerce	30,000	26,100
Department of Defense	.....	21,000
Department of Energy	.....	1,500
Office of Economic Opportunity	28,480	.....
Department of Health, Education, and Welfare	142,063	611,887
Department of Housing and Urban Development	2,852	124,300
Department of the Interior:		
Bureau of Indian Affairs	230,350	[2] 1,002,505
All other	2,778	33,899
Department of Justice	.....	5,018
Department of Labor	2,300	213,957
Department of Transportation	.....	907
Small Business Administration	1,506	[3] 83,000
Total	458,953	2,135,073

[1] Based on figures developed in fiscal year 1971.
[2] Excludes $297,500,000 in Indian Trust Funds.
[3] Based on modest growth of $82,500,000 level in fiscal year 1977.

Until the Department and the BIA can clearly demonstrate that the welfare of the Indian people and the level of Federal services available to them are improving at a rate consistent with these spending increases, the Committee will continue to reject major program increases and insist upon a full accounting from the BIA, directly or through investigations like those just completed by the GAO.

Agency allocations.—The Committee is concerned over charges by Indian witnesses that funding is not allocated fairly among tribal agencies. Spokesmen for the Northern and Southern Pueblos, in particular, felt their tribal agencies were being badly shortchanged on a per capita basis. The BIA, in its response to the Committee, argued that population is only one factor in funding allocation decisions. The extent and nature of trust lands and resources and economies of scale, for example, could have a major bearing on funding needs. Nevertheless, the Committee remains concerned that services provided by the two Pueblo agencies, and perhaps several other agencies, may not be up to par with those provided Indian tribes through other agencies. Accordingly, the Committee asks the BIA to conduct a review of its allocation procedures and to determine before the next budget cycle whether adjustments might be in order.

Education.—The $6,600,000 reduction in the budget request for education programs involves increases of $5,000,000 for special education and $1,000,000 for Labre School operations and reductions of $11,653,000 in school operations and $947,000 in Johnson-O'Malley assistance to public schools. The Committee has deleted a $653,000 increase requested for general education and training and allowed only $4,000,000 of the proposed $12,000,000 increase for BIA school operations because of inadequate justifications. Additionally, the Committee has reduced the $33,200,000 request for off-reservation

boarding schools by $3,000,000. The GAO reported these schools are being badly managed and underutilized, and the reduced allowance is intended to stimulate more effective spending practices.

The GAO report is a serious indictment of off-reservation boarding school operations. The Committee expects the BIA will begin immediately to address the issues of underutilization of facilities, appropriate educational programs, and staffing needs. In some cases, controversial decisions will be required, including consolidation of schools, but it is possible to provide a more responsive educational program while reducing costs at these schools if a determined and professional approach is adopted. The Bureau should make a progress report to the Committee before submitting its fiscal 1980 budget request.

The Committee is troubled by the wide variation in per-pupil funding, particularly among previously private schools and other facilities operated under Indian contracts. The BIA should investigate this problem and effect the necessary improvements for equitable funding, with a report to the House and Senate Committees on Appropriations by January 30, 1979.

The Committee directs the Bureau to maintain the $2 million earmarked for special education in fiscal year 1978 in its fiscal year 1979 school operations budget to meet the needs of handicapped children as required by Public Law 94-142. The Bureau is also directed to report back to the Committee by December 31, 1978, as to how the total of $7 million is being obligated.

In establishing an education program for handicapped Indian children, the Bureau has determined that in many areas the incidence of handicapping conditions is insufficient to justify establishing costly local programs. In some States, Alaska for example, local school districts have the capability to provide services to handicapped children in BIA attendance areas. The Committee urges the BIA to enter into cost reimbursable contracts with State or local education agencies, where possible, to provide services to handicapped children. This arrangement will be more cost effective and reduce the need for additional Bureau personnel.

The reduction in Johnson-O'Malley reflects the Bureau's downward revision in estimated students to be served by the program.

The Committee has provided the full budget request, $41,406,000, for continuing education, including $26,765,000 in higher education scholarships. In response to GAO recommendations, the BIA should do a better job of counseling Indian students and insuring that their special needs are met at the colleges they attend. If additional staffing is needed, as suggested by GAO, the Committee will consider a well-justified supplemental appropriation request to fill any existing gaps.

The need for adult education for Alaskan Natives has not been addressed by the BIA. Therefore, the Committee directs that at least $600,000 be made available to the Juneau Area Office for this program in fiscal year 1979.

Indian services.—An increase of $19,153,000 recommended for Indian services includes the following changes:

Tribal government services	−1,847,000
Law enforcement	−1,800,000
Housing	+10,000,000
Self-determination services	+12,800,000

Reductions in tribal services of $1,487,000 for aid to tribal governments and $360,000 for tribal courts are based on vague justifications for program increases. There are also no clear justifications for the $3,662,000 increase requested for law enforcement, and the BIA was unable to estimate reduced needs arising from the *Oliphant* decision of the Supreme Court, so the Committee approved only one-half the added funding.

The increase in the $20,284,000 request for housing is directed mainly at those areas not served effectively by programs of the Department of Housing and Urban Development, particularly Alaska. The additional funding should be used by the Central Office in accordance with the plan developed in response to the GAO recommendations to the Secretary of the Interior. Amounts needed for Cousahatta and Miccosukee tribal services and to complete the rehousing of Venetie Village in Alaska are also included in the housing increase.

In agreement with the House, the Committee recommends adding $12,800,000 for self-determination services to provide for Indian contractors' overhead costs, which the BIA badly underestimated in both fiscal 1978 and 1979.

The Committee recommends the full $87,933,000 request for social services although much of the $8,295,000 increase was not adequately justified. It is expected that savings can be achieved, particularly through offsetting assistance under the Comprehensive Employment and Training Act (CETA), and that these savings should be applied to any shortfall in welfare assistance. This will avert the need for a supplemental request such as the one now pending for fiscal 1978.

Economic development and employment.—The reduction in programs for economic development and employment includes deletion of an unjustified $780,000 increase in business enterprise development and a decrease of $600,000 in direct employment to offset expected support under CETA. The Committee also concurs in a $33,000 decrease for central office supplies imposed by the House.

To continue the jojoba agriculture program, the Committee has included a $500,000 increase under business enterprise development to establish and maintain 20 acre field test plots on appropriate Arizona reservations that have available land, water supply systems, and farm equipment.

In approving the $18,000,000 request for vocational training, including an increase of $2,000,000, the Committee has restored a provision deleted by the House that excepts BIA from the matching fund requirements of the Department of Health, Education, and Welfare's vocational training program (Public Law 95-40). Bureau funds should be devoted to several vocational education programs operated under different legislative authority by the BIA.

The Committee has not agreed to the $4,000,000 increase approved by the House for Indian Action Teams in view of the deficiencies

raised by the GAO. As stated in the House report, "* * * until substantial steps are taken to correct these deficiencies, significant resources should not be added to this program." Although the Committee has approved the full $21,337,000 requested for Indian Action Teams, the BIA will be expected to expedite program improvements before any substantial funding is committed.

The GAO also found several serious shortcomings in the BIA's economic development programs that must be corrected before any substantial funding can be recommended again. Despite these obvious problems, the Committee fears that both BIA and the Economic Development Administration in the Department of Commerce are not looking hard enough at needed reforms. Inexcusable program failures should not be defended by either agency. The Committee agrees with GAO that better coordination is needed, along with more realistic support for Indian business development. It also supports GAO's recommendation that Congress consolidate all Indian economic development programs in a single, more responsive agency.

Natural resources.—A net reduction of $7,069,000 recommended for natural resource development is comprised of the following increases and reductions:

Program direction and support	−212,000
Agriculture	+760,000
Forestry	−1,212,000
Water resources	−65,000
Wildlife and parks	+375,000
Fire suppression	−6,550,000
Fire rehabilitation	−450,000
Irrigation and power	+285,000

Reductions recommended in program support, forestry, and water resources reflect denial of unjustified program increases. In most cases the BIA relied on a single statement to the effect that the increase reflected tribal priorities. This alone is not sufficient justification for multimillion program expansions. Decreases for fire suppression and rehabilitation merely defer this funding for a later supplemental appropriation.

Recommended increases include the following: Papago Farms water development, Ariz., $100,000; Pyramid Lake fish hatchery operations, Nev., $660,000; Gila River Reservation water development, $285,000; expanded hatchery operations initiated in Washington State in fiscal 1978, $375,000. The Committee deferred House increases of $3,470,000 for Cheyenne River Reservation water distribution and $1,300,000 for Navajo on-farm development until BIA could supply better justification. The Pyramid Lake Hatchery increase provides $460,000 to continue operation of the existing tribal hatchery and $200,000 to begin operation next spring of a second hatchery now under construction. The increase for Papago Farms will support a pilot program and feasibility study based on water development to date. Experience gained from this work will guide decisions on future development funding.

Trust responsibilities.—Recommmended reductions in the trust responsibilities activity include $4,450,000 in rights protection and $1,900,000 in real estate services. An offsetting increase of $100,000 is approved to begin a long-needed survey of Coeur d'Alene tribal lands.

The Committee is concerned over the rapid increase in funding for Indian rights protection, which has grown from a $2.3 million level in 1974 to a request for nearly $18 million in 1979. Further, much of the increase proposed for 1979 was not adequately justified. The allowance of $13,533,000 recommended by the Committee includes the $600,000 increase requested for conveyance of historic and cemetery sites in Alaska and unbudgeted increases of $500,000 for Ak Chin and $50,000 for Acoma water studies in Arizona in agreement with the House. Within available funds, the Committee directs that $75,000 be used for enforcement of fishing regulations on the Annette Island Reserve, Alaska.

General management.—The Committee has agreed with House reductions of $2,788,000 in common program services for agency and area office levels and $1,302,000 in pay cost annualization. Additionally, the Committee recommends denial of a $662,000 increase requested for program development and budget that was not adequately justified.

The Committee supports the House goals that were embodied in budget increases for modernization of ADP services, management studies, and centralized training and technical assistance. However, increases for these projects totaling $4,510,000 have been deferred. In the case of the ADP improvements, the Committee has noted a recent GAO report recommending better use of ADP facilities Departmentwide. BIA needs should be incorporated into overall improvements that can be expected to stem from the GAO's recommendations. The Committee will extend sympathetic consideration to a supplemental appropriation request designed to implement these improvements. In the case of management and training funds, the Committee was unable to obtain a reliable justification from BIA. When specific funding needs can be identified to support the House goals, the Committee will lend its approval to required increases.

The Committee agrees with the House allowance of $94,000 to initiate services to the Louisiana Coushatta Tribe, partly within available funds. Additionally, the Committee recommends a total of $800,000 to implement services to the Siletz Tribe in Oregon. An increase of $450,000 is provided, with the balance to be funded from general program increases.

The Committee has deferred action on GAO recommendations to achieve tighter congressional controls on the BIA's administrative expenses. As mentioned earlier, the Committee will await the results of current reorganization efforts before deciding whether additional changes are needed in funding controls.

Like the House, the Committee has not recommended any reduction in the BIA's request for travel funds. However, the Committee remains concerned over the adequacy of the Bureau's supervision and control of travel. To date the Bureau has not been able to hold to the reduced travel spending limits imposed for the current fiscal year and cannot clearly identify the allocation of travel funds. As required by the House committee, the Bureau should establish an effective system to identify and control travel spending. Further, the current practice of extending travel funds to persons other than Bureau personnel, with the exception of student transportation to

and from school, should be carefully monitored and controlled. In this connection, the Committee directs the BIA's attention to section 304 of the bill's general provisions. No Federal funds should be provided, directly or indirectly, to support lobbying activities of any kind.

CONSTRUCTION

Appropriation, 1978	$66,319,000
Estimate, 1979	86,815,000
House allowance	116,265,000
Committee recommendation	117,254,000

The Committee recommends an appropriation of $117,254,000, increasing the budget estimate by $30,439,000 and the House allowance by $989,000. The recommendation includes $70,315,000 for buildings and utilities and $46,939,000 for irrigation systems. Changes in the budget request are detailed below:

Little Wound high school	+$6,755,000
Tuba City boarding school	+2,000,000
Chemawa boarding school	+11,000,000
Kindergarten construction	+1,000,000
Duckwater Shoshone school renovation	+200,000
Swimming pools, elementary and secondary schools	—1,500,000
Barrow gas distribution system	+8,800,000
White River reservoir, planning and design	+100,000
Navajo irrigation project administration buildings	—905,000
Tamgass hatchery	+2,800,000
Gila River Reservation pipeline	+189,000

Funds added for new school construction are to complete projects already underway or under commitment. This continues the Committee policy initiated last year to halt any new construction starts until the Bureau has strengthened its facilities management and construction program. The Bureau is currently developing a professional system for addressing school construction priorities, and the Committee anticipates it can begin recommending new school projects in fiscal 1980. However, the priority system will have to be both realistic and reliable, placing proper emphasis on areas of greatest need. Schools should be designed to assure fully adequate educational facilities that can be operated and maintained efficiently at low cost.

The Committee has deleted $1,500,000 included in the budget request for swimming pools at three new elementary and secondary schools—Standing Rock, Lower Brule, and Jemez. Many Indian reservations have schools without adequate classrooms and sanitation facilities or schools that are fire and safety hazards. These needs should have priority over swimming pools and other nonessential but expensive facilities. The Bureau needs to establish more realistic design criteria as part of its construction program improvements. In the future, all features of proposed construction projects should be clearly identified in the budget justification.

The Committee has not included $8,200,000 added by the House for an inventory of the Bureau's 228 school facilities. This funding, together with $1,200,000 proposed for fiscal 1978 under a reprogramming request, was given as the minimum cost of the inventory, which is the first step in establishing effective management of school

construction and maintenance. The Committee supports an inventory but questions the estimated cost as a total add-on to existing program funds. At last report, the Bureau had some $30 million in available construction funding still unobligated, much of it for projects now of questionable priority. The Committee would like to see the inventory costs pared down and offset by the use of unobligated funds before recommending any new appropriations.

As a part of improving the school construction program, Bureau witnesses testified in support of building smaller schools to serve individual Indian communities. This was said to respond to tribal and parental desires. The Committee supports this concept as long as it takes into account the availability of existing facilities nearby. The Bureau should carefully examine the cost of small school construction and operation, and it should adopt a realistic school attendance boundary policy to insure that all educational facilities are fully utilized. A report promised to the Committee on these questions is already overdue. It should be submitted by October 1.

The Committee has added the minimum funding required to insure that the Secretary can fulfill his obligations and responsibilities, both statutory and contractual, with regard to the supply and distribution of gas at Barrow, Alaska. Together with $600,000 previously appropriated, a total of $9.4 million will be available under this account to rehabilitate the dangerously rundown gas distribution system in Barrow. Under the Geological Survey's account for the National Petroleum Reserve in Alaska, the Committee has recommended another $35,950,000 for exploration and development of the Barrow gas field. The Committee believes these funds must be provided under requirements of Public Law 94-258 and because of the potential tort liability of the Federal Government under existing contractual agreements.

ROAD CONSTRUCTION

Appropriation, 1978	$75,335,000
Estimate, 1979	71,410,000
House allowance	74,010,000
Committee recommendation	76,753,000

The Committee recommends an appropriation of $76,753,000, increasing the budget estimate by $5,343,000 and the House allowance by $2,743,000. The increase over the budget request includes $5,000,000 to continue road construction in the Four Corners area, a joint project with the State of New Mexico, and $343,000 for surveys, design and other preconstruction costs for road construction in the joint-use area of the Navajo-Hopi Reservation. Within available funds, up to $100,000 should be utilized for the Coushatta Tribe of Louisiana.

The Committee has deferred approval of a House provision making an additional $4,500,000 available for completion of a road from Mexican Water to Bluff, Utah, with $2,000,000 to be financed from other Navajo road funds. Until the Committee can review the impact of this proposal, work on the project can continue with the $1,700,000 already included in the budget estimate.

ALASKA NATIVE FUND

Appropriation, 1978	$30,000,000
Estimate, 1979	30,000,000
House allowance	30,000,000
Committee recommendation	30,000,000

The Committee recommmends an appropriation of $30,000,000, the same as the budget and the House allowance for the Alaska Native Fund, as authorized by the Alaska Native Claims Settlement Act.

TRUST FUNDS

Appropriation, 1978	$26,000,000
Estimate, 1979	24,000,000
House allowance	24,000,000
Committee recommendation	24,000,000

The Committee recommends an appropriation of $24,000,000, the same as the budget and the House allowance.

TERRITORIAL AFFAIRS

Office of Territorial Affairs

ADMINISTRATION OF TERRITORIES

Appropriation, 1978	$37,470,000
Budget estimate, 1979	49,436,000
House allowance	53,523,000
Committee recommendation	49,423,000

The Committee recommends an appropriation of $49,423,000, reducing the budget estimate by $13,000 and the House allowance by $4,100,000. The reduction below the budget estimate applies to pay costs for Federal comptrollers offices and the expanded Office of Territorial Affairs, in agreement with the House. At the same time, House increases of $1,000,000 for the Guam Economic Development Fund and $3,100,000 for operations grants for American Samoa have been deleted.

The Guam Economic Development Fund has historically experienced problems in obligating available funds, partly due to the fact that most of the loan requests involve projects that are only marginally feasible. Efforts are underway to improve this situation as well as the loan delinquency rate, currently estimated at 24 percent. Under these circumstances, the Committee considers the budget request of $500,000 more than adequate for loan requests anticipated during fiscal year 1979.

The increase in operations grants for American Samoa recommended by the House included $2,000,000 for establishment of an economic development loan fund, $1,000,000 for housing loans, and $100,000 for starfish control. The Office of Territorial Affairs has embarked upon an effort to improve the financial management systems in each of the territories. Testimony before the Committee indicated that progress is being made in all areas except American Samoa, which still has no appointed Federal Comptroller. Further, the Committee is concerned over American Samoa's growing de-

pendence on Federal support, which now supplies more than 70 percent of government revenue. Under these circumstances the Committee cannot recommend unbudgeted program increases of the magnitude proposed by the House.

The Committee was not supplied with budget justifications for the Commonwealth of the Northern Marianas until the day scheduled for budget hearings. The material presented was not adequate, and the Committee normally would not recommend appropriations under these circumstances. Although U.S. support for the Northern Marianas is guaranteed under the covenant establishing the Commonwealth, the Committee fully intends to review and, if necessary, modify all annual budget submissions. The Committee expects that in the future the Office of Territorial Affairs will submit detailed budget justifications in a timely manner. In the absence of such a submission the Committee does not intend to consider the budget request.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Appropriation, 1978	$96,483,000
Estimate, 1979	106,920,000
House allowance	115,578,000
Committee recommendation	106,898,000

The Committee recommends an appropriation of $106,898,000, reducing the budget estimate by $22,000 and the House allowance by $8,680,000. With the exception of reductions related to pay costs, the Committee recommendation approves the budget request.

An increase in operations grants approved by the House would give additional funding to districts for education, transportation, and health programs. While the Committee recognizes the importance of these programs, it believes the efforts of the Trust Territory Government and the Congress of Micronesia to reduce overall operating costs in the territories must be continued if economic independence is to be achieved.

The budget request for construction grants totals $51.7 million and represents an increase of more than 50 percent over the current level. The Committee recognizes the need for improving Ponape Airfield, a project for which the House has added $6,740,000. However, other projects throughout the territories also require attention. The capital improvement program developed with U.S. Navy assistance provides for the orderly correction of deficiencies throughout the territories. The Committee will consider funding for Ponape Airfield with other projects as they are advanced in the budgeted construction program for the Trust Territory.

The Committee shares the concern of the House Committee over the situation on Bikini Atoll. The Department should diligently pursue development of a permanent relocation plan, keeping the Senate and House Committees informed on progress. Recognizing the importance of proceeding with the radiological survey for which funding is requested in the fiscal year 1978 supplemental bill, the Committee concurs in the House direction that temporary reprograming of unobligated construction funds be proposed to begin the survey if current funds are insufficient to continue the effort.

The Committee concurs in the House position regarding studies and curriculum development for a College of Micronesia. Studies should be funded within the amount available for operational grants if the Trust Territory and the Congress of Micronesia feel they are vital.

MICRONESIAN CLAIMS FUND, TRUST TERRITORY OF THE PACIFIC ISLANDS

Appropriation, 1978	
Estimate, 1979	
House allowance	$12,600,000
Committee recommendation	

The Committee recommends deletion of the $12,600,000 House allowance for post World War II claims under the provisions of title II of the Micronesian Claims Act of 1971. The General Accounting Office issued a report on March 7, 1978, which highlighted problems in how the Micronesian Claims Commission made title II awards and in how the initial payments were made. The report recommended improvements be made before additional funds are released. During budget hearings, the Committee learned that the High Commissioner in conjunction with the Federal Comptroller will develop procedures designed to eliminate the deficiencies pointed out in the GAO report. Until such procedures are developed and fully approved, no new funding for title II claims is recommended.

SECRETARIAL OFFICES

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

Appropriation, 1978	$14,409,000
Estimate, 1979	[1] 14,895,000
House allowance	14,585,000
Committee recommendation	14,394,000

[1] Reflects transfer of $1,330,000 to Department of Labor as proposed in H. Doc. 95-331.

The Committee recommends an appropriation of $14,394,000, a reduction of $501,000 below the budget estimate and $191,000 below the House allowance. This allowance includes the following reductions, in agreement with the House: 10 positions and $284,000 for land heritage title work; 5 positions and $150,000 for equal opportunity programs; $52,000 for pay costs; and $15,000 for working capital fund payments. The House increase of six positions and $191,000 for processing of Indian claims has been deleted. The budget request includes an increase of four positions in this area which will allow a total of 21 man-years for processing Indian claims. The Committee believes this level is more than adequate to handle the anticipated workload.

OFFICE OF THE SECRETARY

DEPARTMENTAL MANAGEMENT

Appropriation, 1978	[1] $34,993,000
Estimate, 1979	[2] 40,607,000
House allowance	42,391,000
Committee recommendation	41,545,000

[1] Includes amounts appropriated to "Salaries and Expenses" ($21,454,000) and "Departmental Operations" ($13,539,000) in fiscal year 1978.
[2] Reflects transfer of $336,000 to Department of Labor proposed in H. Doc. 95-331.

The Committee recommends an appropriation of $41,545,000 increasing the budget estimate by $938,000 and decreasing the House allowance by $846,000. The recommendation compared with the budget estimate is displayed by activity in the following table:

Activity	*Budget estimate*	*Committee recommendation*
Departmental direction	$6,174,000	$6,174,000
Program direction and coordination	2,417,000	2,468,000
Policy, budget, and administration	12,860,000	14,352,000
General services	3,146,000	3,201,000
Departmental operation	16,010,000	15,350,000

In approving the budget request for departmental direction, the Committee has deleted a House increase of $356,000 for public affairs, limiting this activity to $454,000. In effect, this reduces the Secretary's public affairs budget since the House increase was to replenish funding normally supplied through agency working capital funds.

The recommended public affairs reduction, which coincides with similar decreases in several agency accounts, is based on information developed at a special hearing to determine departmental compliance with the following restriction in the general provisions of the fiscal 1978 Interior appropriations act:

> Sec. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete, in accordance with 18 U.S.C. 1913.

This restriction served to specify and clarify a prohibition that has been law for decades. Despite this limitation, the Committee learned that intensive public communication efforts were conducted by the Office of the Secretary in particular and among several agencies in support of the administration's Alaska lands proposal now pending before Congress. These communications went far beyond the normal press release. They included wide distribution of "editorial columns" signed by the Secretary, special mailings to environmental protection groups urging them to "make your views known," regional releases by the Fish and Wildlife Service, elaborate supporting brochures by the Bureau of Land Management, and many more. All the literature clearly favored the administration's version of the Alaska lands legislation. All of it was produced, printed and mailed at Federal expense. The Committee has no desire to muzzle the administration or the Secretary on important

issues, but it cannot countenance elaborate propaganda campaigns at the expense of the taxpayer. Public affairs programs are established to inform, not influence. If the distinction is not clear to the Department, the limitation on funding will help define it.

The Committee concurs with the other House adjustments resulting in a net increase of $628,000 related to working capital fund items. Since working capital fund payments made by various agencies support functions which are departmental in nature, reductions have been made in 10 agency accounts and a direct appropriation has been recommended for departmental mangement. This accounts for the increase recommended for program development and coordination, general services, and $522,000 under policy, budget, and administration.

The remaining increase under policy, budget, and administration consists of six positions and $300,000 for the budget office and $500,000 for expanded audit capability, both in agreement with the House, and $170,000 and six positions for expansion of the Office of Environmental Project Review. The departmental budget office has the responsibility for coordination and execution of a budget designed to meet legislative mandates and program responsibilities of the department. The additional resources provided will allow for a technical review capability and permit response to additional workload. The increase for expanded audit capability will support auditing of Indian self-determination grants and contracts on a 5-year cycle.

The $660,000 reduction in Departmental operations applies to the Office of Aircraft Services. This office was originally established to oversee all of the Department's air operations, but in practice this management goal has been applied only to the State of Alaska. Although OAS does not exercise any direct control over various agency aircraft operations in the lower 48 States, it is headquartered at Boise, Idaho. Since its major mission is in Alaska the Committee believes OAS and its essential administrative functions should be headquartered at Anchorage. The Committee has deleted anticipated savings from this consolidation in its $750,000 allowance for OAS.

SPECIAL FOREIGN CURRENCY PROGRAM

Appropriation, 1978	$1,000,000
Estimate, 1979	1,000,000
House allowance	1,000,000
Committee recommendation	1,000,000

The Committee recommends an appropriation of $1,000,000, the same as the budget estimate and the House allowance. This funding level will provide for endangered species research in Egypt, India, and Pakistan, as well as for translation of research journals for support of domestic efforts.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

To assist in the economic recovery of the village of Hydaburg, Alaska, the Committee has included language in the general provisions of title I providing that forgiveness of the Federal indebtedness

of the Hydaburg Cannery Association, an Alaska Native group, shall be effective immediately upon authorization by the Secretary of the Interior.

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TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Forest Service

In response to the requirements of the Forest and Rangeland Renewable Resources Planning Act (RPA), the Forest Service in 1975 prepared an assessment which recommended long-term program levels for the management of the Nation's forests and rangelands, and for the Service's research and Federal-State cooperative programs. Forest Service budgets since 1977 have been guided by these recommended program goals. The National Forest Management Act and the Federal Land Policy and Management Act, both enacted at the close of the 94th Congress, expanded and strengthened this management process. Despite these developments, the budget proposals forwarded by the administration have been inadequate, and Congress has been forced to provide significant funding increases in order to meet even the most basic established goals. The budget request for fiscal year 1979 continues this pattern.

The Committee feels that the reluctance of the administration and the Department to request funding in line with established RPA goals lends support to the belief that RPA funding levels are not, in all cases, based on adequate planning and assessment. Even the pattern of appropriation requests is not consistent with RPA levels. Mindful of this and the spending ceiling adopted by the Congress for fiscal year 1979, the Committee has made selected adjustments which continue, as much as feasible, the balanced funding approach established in the current year.

The Committee has been concerned for some time that Forest Service program expenditures stray from prescribed congressional funding priorities. The current roadless area wilderness review (RARE II) is a recent example. Apparently at departmental direction, the Forest Service committed $1.36 million to RARE II in fiscal year 1977 and $4.8 million in fiscal year 1978. Yet no mention of this program appeared in the budget justifications until this year, when $350,000 was requested to complete the effort.

The Committee does not quarrel with the need for wilderness reviews but it does insist that funding of this magnitude be properly budgeted and submitted for advance congressional approval, particularly when it involves the diversion of personnel from forest management programs. The Committee is mindful, for example, that while personnel were being utilized for the unbudgeted RARE II program the GAO was declaring a rescission of funds specifically appropriated for timber sales activities—funds that were not utilized because of personnel shortages.

Lofty goals are no excuse for shortcutting the appropriations process. The Committee will expect the Forest Service to request and justify in advance, through reprograming requests or budget proposals, any sizeable program initiatives.

Once the RARE II environmental impact statements are prepared, substantial acreage will be recommended for sustained yield timber production, while other areas will be recommended for wilderness designation. So as not to impact severely on the timber sales program, the Forest Service should begin planning specific timber sales in areas which appear likely to be designated for commercial timber production. Such planning should not affect the areas involved to an extent that they can no longer be considered for wilderness designation at some future date.

Overall, the Committee recommendation provides some $1.3 billion in new budget authority for the programs of the Forest Service, an increase of nearly $126 million over appropriations to date for fiscal year 1978, and nearly $12 million over the budget request. This represents a real program increase of $97,663,000 since $86 million budgeted in advance for firefighting costs has merely been deferred.

Generally, the Committee recommendation is in agreement with the House for programs considered to be most important to multiple-use management of the forest and range resources, evidenced primarily in the forest land management account. While the Committee supports the intent of House-passed increase, it has recommmended selected reductions totaling $26.6 million which will not undermine a strong and balanced program.

Forest Protection and Utilization

FOREST LAND MANAGEMENT

Appropriation, 1978	$535,754,000
Estimate, 1979	689,624,000
House allowance	626,720,000
Committee recommendation	672,128,000

The Committee recommends an appropriation of $672,128,000, decreasing the budget estimate by $17,496,000 and increasing the House allowance by $45,408,000. Recommendations by budget activity are detailed below:

Activity	*Budget estimate*	*Committee recommendation*
Sales administration and management	$132,588,000	$164,628,000
Reforestation and stand improvement	66,475,000	92,900,000
Recreation use	88,277,000	88,674,000
Wildlife and fish habitat management	25,276,000	29,008,000
Rangeland management	24,914,000	31,495,000
Soil and water management	34,229,000	35,712,000
Minerals area management	11,319,000	11,954,000
Forest fire protection	157,188,000	131,188,000
General land management	60,507,000	58,061,000
Fighting forest fires	64,275,000	4,275,000
Forest insect and disease management	18,633,000	20,633,000
Cooperative law enforcement	5,943,000	4,500,000
General administration reduction	.....	—900,000

For sales administration, reforestation, and timber stand improvement, increases totaling $58,465,000 have been recommended, in agreement with the House. The recommended levels will fund preparation for sale of at least 12.4 billion board-feet of timber, and for the harvest of 11.5 billion board-feet, including salvageable timber.

The Committee recommends $131,188,000 to finance fully the forest fire protection activity. The allowance is $26,000,000 below the budget estimate and $63,848,000 above the House, which deferred most of this advance funding.

In the past, presuppression programs under this activity have been funded mostly as part of firefighting supplemental appropriations. The fiscal year 1979 budget proposed for the first time to fund both the regular fire protection activity and estimated firefighting costs in advance. The Committee agrees that ongoing presuppression work under the fire protection activity should be budgeted and funded in advance, along with other forest management programs. The past practice of weaving presuppression costs into firefighting supplementals hinders congressional control over these expenditures. Presuppression costs have risen dramatically in recent years, but the Committee is unable to discern any marked benefits stemming from these expenditures. The Forest Service should conduct a cost-benefit analysis of both presuppression and suppression activities and base its fiscal year 1980 budget request on its findings.

The Committee recommendation for fire protection, detailed below, should provide adequate presuppression support when augmented by Federal employment and training programs such as CETA and YACC:

Activity	*Budget estimate*	*Committee recommendation*
Fire prevention	$23,944,000	$17,944,000
Fire detection	9,311,000	9,311,000
Fire attack forces	80,256,000	65,256,000
Aviation operations	34,290,000	30,290,000
Fuel reduction and fuelbreaks	9,387,000	8,387,000

The Committee expects the Forest Service to operate the fire protection program within the allowances provided and not seek to expand it as part of a supplemental. Should abnormal fire conditions necessitate presuppression increases, the Forest Service should seek additional funds through a reprograming.

For fighting fires, the Committee recommends the customary initial appropriation of $4,275,000, the same as the House. Additional actual firefighting costs in this activity will be funded through supplemental appropriations.

Funding levels recommended for wildlife and fish habitat management, rangeland management, soil and water management, and minerals area management are in agreement with House levels or represent slight decreases. However, all of these programs are increased over the budget request, and are generally augmented to continue at the current program output levels.

Selective reductions have been recommended for the remaining activities, bringing funding levels below the budget request. For recreation use, the Committee has recommended increases in agreement with the House for all subactivities except planning and

inventories, which took an unbudgeted leap from $2.7 million to $9.8 million in fiscal 1978. For this effort, the Committee recommends $5,800,000, a decrease of $4 million below the budget. The $58,061,000 recommended for general land management consists of decreases of $2,087,000 for land exchange, $1,225,000 for land surveys, and $660,000 for special nonrecreation uses. These are offset by increases of $994,000 for geometronics, and $532,000 for maintenance.

The level recommended for insect and disease management, although $6,200,000 under the House allowance, represents a budget increase of $2,000,000. The Committee feels this amount will permit continuation of efforts to combat insect infestation and control noxious weeds at an adequate level, especially in light of the $4,194,000 carryover in this program. The Committee concurs in the recommendation earmarking $1,000,000 for gypsy moth control and eradication efforts and requiring an annual report to Congress and EPA concerning gypsy moth damage.

The reduction for cooperative law enforcement is based on the belief that compensation to local governments for additional law enforcement costs as a result of activities on forest lands can be partially offset by $105,000,000 in payments in lieu of taxes administered by the Bureau of Land Management.

FOREST RESEARCH

Appropriation, 1978	$101,488,000
Estimate, 1979	102,152,000
House allowance	110,718,000
Committee recommendation	104,002,000

The Committee recommends an appropriation of $104,002,000, an increase of $1,850,000 over the budget estimate and a decrease of $6,716,000 below the House allowance. Budget activity allocations are detailed below:

Activity	*Budget estimate*	*Committee recommendation*
Tree and timber management research	$18,296,000	$18,946,000
Forest watershed management research	9,114,000	9,314,000
Wildlife, range and fish habitat research	7,540,000	8,040,000
Forest recreation research	2,104,000	2,104,000
Surface environment and mining research	3,143,000	3,143,000
Fire and atmospheric sciences research	8,956,000	8,956,000
Forest insect and disease research	19,829,000	19,829,000
Forest products utilization research	13,115,000	13,115,000
Forest engineering research	2,040,000	2,240,000
Renewable resource evaluation	13,300,000	13,600,000
Renewable resource economics research	4,715,000	4,815,000
General administration reduction		—100,000

The following specific projects are included within the increased allowances listed above:

Uneven aged timber management research, Monticello, Ark	$250,000
Resource economics research, Rapid City, S. Dak	100,000
Hardwoods culture research, Parsons, W. Va	150,000
Timber harvesting research, Morgantown, W. Va	200,000
Watershed management research, Juneau, Alaska	200,000
Anadromous fish research, Juneau, Alaska	250,000
Wildlife habitat and timber management research, Fairbanks, Alaska	450,000
Wildlife, range, and fish habitat research, Alexandria, La	50,000
Renewable resource evaluation, Alaska	300,000

STATE AND PRIVATE FORESTRY COOPERATION

Appropriation, 1978	$53,059,000
Estimate, 1979	41,755,000
House allowance	57,676,000
Committee recommendation	48,260,000

The Committee recommends an appropriation of $48,260,000, an increase of $6,505,000 over the budget estimate and a decrease of $9,416,000 below the House allowance. Cooperative forestry programs are detailed below:

Activity	*Budget estimate*	*Committee recommendation*
Forest fire control	$26,024,000	$30,619,000
Forest tree production	628,000	871,000
Forest management and processing	7,529,000	7,529,000
General forestry assistance	7,574,000	7,574,000
Pinchot Institute	.....	567,000
FIRESCOPE	.....	1,200,000
General administration reduction	.....	—100,000

The increases over the budget estimate maintain cooperative programs at the fiscal 1978 levels. Although no increase over fiscal 1978 is recommended for the FIRESCOPE program in southern California, as approved by the House, the Committee believes significant additional support can be provided by requiring matching funds from local participants, a standard practice in the cooperative forestry programs.

CONSTRUCTION AND LAND ACQUISITION

Appropriation, 1978	$40,630,000
Estimate, 1979	19,545,000
House allowance	43,550,000
Committee recommendation	24,118,000

The Committee recommends an appropriation of $24,118,000, an increase of $4,573,000 over the budget estimate and a decrease of $19,432,000 below the House allowance. Allowances by budget activity are detailed below:

Activity	*Budget estimate*	*Committee recommendation*
Recreation use	$7,822,000	$11,682,000
Fire, administration and other	8,587,000	8,587,000
Research	.....	713,000
Pollution abatement	1,147,000	1,147,000
Land acquisition, Weeks Act	1,989,000	1,989,000

Included within the Committee recommendation are increases of $3,645,000 for construction of a day lodge at Timberline Lodge, Mt. Hood NF, $713,000 for construction of a laboratory wing at Morgantown, W. Va., and $215,000 for recreation improvements at Monongahela NF.

Within available funds, the Committee has provided $150,000 to complete planning and design of the Hale Boggs-Nick Begich visitors center at Portage Glacier, Alaska.

FOREST ROADS AND TRAILS

Appropriation, 1978	$175,833,000
Estimate, 1979	173,922,000
House allowance	224,275,000
Committee recommendation	191,131,000

The Committee recommends an appropriation of $191,131,000, increasing the budget estimate by $17,209,000 and reducing the House allowance by $33,144,000. This recommendation, when combined with the permanent appropriation of 10 percent of the national forest receipts, will provide for a road construction program in fiscal year 1979 of $263,668,000.

Included in the recommended increases are $542,000 for replacement of Cranberry-Dyer bridge, Monongahela NF; $235,000 for improvements to Hardin Ridge recreation area roads, Hoosier NF; $46,000 survey and design, Arizona Snow Bowl road; $3,200,000 for the Warm Lake-Landmark road, Boise NF; $312,000 for road construction, Chequamegon NF and Nicolet NF; and $785,000 for Monongahela NF projects funded in the construction and land acquisition account.

The Committee feels strongly that the highest priority for the use of roads and trails funding should be placed on gaining initial access to timber stands. The failure to reach the full allowable cut and recover salvageable timber in many areas is directly related to the lack of access roads. The Committee expects that in the process of determining priorities for road construction the Forest Service will earmark a substantial portion of the roads and trails funding for initial access roads.

While the Committee recognizes the importance of recreation, it cannot concur in the House directive that a minimum of $12.5 million be allocated to access roads for recreation purposes. The total for recreation road construction should be determined within the process for establishing priorities.

FOREST ROADS

Appropriation, 1978	$212,115,000
Estimate, 1979	243,466,000
House allowance	243,466,000
Committee recommendation	243,466,000

The Committee recommends an appropriation of $243,466,000, the same as the budget and the House allowance. This account reflects the financing of road construction by timber purchasers, as required by the Forest and Rangeland Renewable Resources Planning Act of 1974. This level of funding will provide for the construction or reconstruction of 10,462 miles of road.

ACQUISITION OF LANDS FOR NATIONAL FORESTS, SPECIAL ACTS

Appropriation, 1978	$165,000
Estimate, 1979	160,000
House allowance	415,000
Committee recommendation	160,000

The Committee recommends an appropriation of $160,000, the same as the budget estimate and a reduction of $255,000 below the

House allowance. The recommended level denies the House increase for expansion of the acquisition program at San Bernardino and Cleveland National Forests.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

Appropriation, 1978	$38,000
Estimate, 1979	242,000
House allowance	239,000
Committee recommendation	239,000

The Committee recommends an appropriation of $239,000, the same as the House allowance and a reduction of $3,000 below the budget estimate. The reduction is based on downward revision of collection estimates for the States of Arizona, Idaho, and Washington. Deposits are made by school districts to provide for cash equalization of land exchanges.

RANGELAND IMPROVEMENTS

(Special Fund, Indefinite)

Appropriation, 1978	$5,200,000
Estimate, 1979	6,374,000
House allowance	5,400,000
Committee recommendation	5,400,000

The Committee recommends an appropriation of $5,400,000, the same as the House allowance and a decrease of $974,000 below the budget estimate. The reduction below the budget estimate is based on the anticipated moratorium on increasing grazing receipts.

ASSISTANCE TO STATES FOR TREE IMPROVEMENT

Appropriation, $1978	1,387,000
Estimate, 1979	1,409,000
House allowance	1,508,000
Committee recommendation	1,508,000

The Committee recommends an appropriation of $1,508,000, the same as the House allowance and an increase of $99,000 over the budget estimate, for increased assistance in tree planting and reforestation on non-Federal lands.

CONSTRUCTION AND OPERATION OF RECREATION FACILITIES

(Indefinite, Special Fund)

Appropriation, 1978	$4,084,000
Estimate, 1979	3,459,000
House allowance	3,459,000
Committee recommendation	3,459,000

The Committee recommends an appropriation of $3,459,000, the same as the budget estimate and the House allowance, for construction and operation of recreation facilities as authorized by Public Law 93-347. Funding will provide for repair of facilities at fee-designated sites and increased enforcement on national forest lands to reduce vandalism.

YOUTH CONSERVATION CORPS

Appropriation, 1978	$60,000,000
Estimate, 1979	60,000,000
House allowance	60,000,000
Committee recommendation	60,000,000

The Committee recommends an appropriation of $60,000,000, the same as the budget estimate and the House allowance, for the Youth Conservation Corps. This funding level will provide employment for some 38,000 young people, as well as improvements to parks and forests throughout the country.

RIGHTS-OF-WAY

Appropriation, 1978	
Estimate, 1979	$100,000
House allowance	100,000
Committee recommendation	

No appropriation is recommended at this time to establish this proposed new account. As originally presented, this account would function much like the self-sustaining fee account under the Bureau of Land Management. Service charges to applicants for rights-of-way would be collected in advance and expended to cover costs of environmental studies. However, the Forest Service may not be able to activate the account under existing authority and may utilize the BLM account instead. Until these and other questions are cleared up, the Committee is deferring any funding recommendation.

TIMBER SALVAGE SALES

Appropriation, 1978	
Estimate, 1979	
House allowance	$3,000,000
Committee recommendation	3,000,000

The Committee recommends an appropriation of $3,000,000, the same as the House allowance, for timber salvage sales. This funding will be used for design and construction of roads and preparation and harvest administration and sale of salvageable timber on National Forests which have not yet built up a salvage fund from receipts. Funds appropriated in this account tie in with increases provided under the forest land management account for sale preparation of 12.4 billion board-feet of timber and the harvesting of 11.5 billion board-feet.

The Committee endorses the House directive that every possible consideration be given to using waste material for fuel rather than burning slash material in the field.

DEPARTMENT OF ENERGY

For the Department of Energy, created last year by Public Law 95–91, this will mark the first direct appropriation for programs previously scattered among the Energy Research and Development Administration, Federal Energy Administration, and several departments and regulatory commissions. The goal of this consolidation was to promote a better coordinated and more effective Federal

effort to conserve, manage and develop the Nation's energy resources, hopefully at less cost. Unfortunately, there is little evidence to date that this goal is any closer than it was last year. There is real concern, in fact, that the new Department, as it is currently organized and functioning, has serious management and coordination problems that contribute to the lack of a coherent decisive national energy policy. These problems have also contributed to a confused budget presentation and a continuing pile-up of unobligated budget authority.

In this context, while recognizing the need for strong financial support for Federal energy programs, the Committee is determined to tighten up program funding and weed out marginal or redundant activities. The highest priority must be given to curbing rampant inflation through controls over Federal spending, and only the most urgent energy programs should be exempt from these restraints.

Accordingly, the Committee's recommendations for those fossil energy, conservation and regulatory programs funded in this bill impose a reduction of more than $1.4 billion below the budget estimates as amended. This involves reducing the House allowance in total by $1.1 billion and holds the fiscal 1979 appropriation to only an increase of about 1 percent over fiscal 1978.

Despite the overall reduction, the Committee has been able to recommend funding several new initiatives such as energy impact assistance to States and initiation of major coal liquefaction demonstrations. These increases, in part a response to the President's energy supply initiatives, have been offset by selected program reductions and by general funding cutbacks to offset the growing backlog of unobligated appropriations.

The single biggest reduction, however, is in the $4.2 billion request for the Strategic Petroleum Reserve. This reflects the Committee's judgment that continuing slippages and unanticipated storage problems cast doubt on the Department's ability to obligate effectively even the $3 billion allowance within the intended time period. But this is not a real reduction in the sense of actual savings; it is merely a deferral of a cost to which the Government is fully committed.

Of deep concern to the Committee is the fact that most of the Department's appropriations recommended in the bill—again this year—are not authorized. This continuing failure of Congress to enact timely spending authorizations and a national energy program must also share the blame for the Nation's failure to adopt a vigorous and effective energy policy.

In the absence of enacted authorizations, the Committee has attempted as much as possible to stay within the ceilings proposed by the Senate Committee on Energy and Natural Resources for ongoing programs. Generally, the Committee has attempted to avoid funding pending authorizations for new starts that might not gain final approval or for any programs on which the Committee was not able to conduct adequate hearings. To do otherwise would be to neglect the Committee's responsibilities and to undermine the protections built into the congressional appropriations process.

The Committee continues to hope that procedural changes can be adopted by both houses of Congress to improve the energy authori-

zations process and restore the orderly development of authorizations in advance of appropriations. In this respect, the Committee questions the real need for a top-to-bottom authorization every year of every dollar to be appropriated to the Department.

Although the President's DOE budget amendments for energy supply initiatives came late in the appropriations process—too late for proper consideration by the House—the Committee has attempted to act on those proposals that were heard in advance and had clear justification. Others have been disallowed.

As a whole the Department's budget justifications were totally inadequate. This necessitated extensive questioning, both direct and in writing, to clarify the various budget proposals. Considering the size of these appropriations requests, this lack of specific supporting data casts further doubt on the effectiveness of the Department in the conduct of its vital energy mission. The Department will be expected to work closely with the House and Senate Committees on Appropriations staffs in developing a more workable and specific format for budget justifications. Further, the entire budget presentation should follow the account structure developed by the two Committees.

The Committee acknowledges the efforts that the Department has taken to explore and stay abreast of the energy needs of rural Americans. At the same time, the Committee is concerned with the slow progress toward the establishment of the Rural Energy Office that was authorized in the original Department of Energy legislation. Therefore, the Committee directs the Secretary to establish the Rural Energy Office with available funds. The Committee further directs the Secretary to submit a report on this Office's progress, activities, and accomplishments by January 1, 1979.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Appropriation, 1978	$619,950,000
Estimate, 1979	637,451,000
House allowance	614,704,000
Committee recommendation	589,753,000

The Committee recommends an appropriation of $589,753,000, reducing the budget estimate by $47,698,000 and the House allowance by $24,951,000. Allowances by activity and subactivity are detailed below:

ALLOWANCES BY ACTIVITY AND SUBACTIVITY

Activity	Budget estimate	Committee recommendation
Coal:		
Mines R. & D.:		
Underground coal mining	$52,860,000	$52,860,000
Surface coal mining	12,515,000	12,615,000
Coal preparation	5,071,000	5,071,000
Subtotal	70,546,000	70,546,000
Liquefaction:		
Demonstration plants	5,740,000	16,740,000
Direct hydrogenation	29,000,000	27,000,000
Solvent extraction	49,740,000	48,640,000
Pyrolsis	2,000,000	2,000,000

ALLOWANCES BY ACTIVITY AND SUBACTIVITY —Con.

Activity	Budget estimate	Committee recommendation
Coal: —Con.		
Liquefaction: —Con.		
Support studies and engineering evaluations	18,386,000	17,486,000
Subtotal	104,866,000	111,866,000
Gasification:		
High Btu demonstration plants	10,000,000	10,000,000
High Btu R. & D	31,266,000	23,895,000
Low Btu demonstration plants	7,300,000	4,300,000
Low Btu R. & D	35,600,000	24,680,000
Special projects and support studies	18,260,000	14,728,000
In situ coal gasification	11,800,000	16,800,000
Demonstration plants—design and technical support	8,220,000	5,220,000
Peat gasification		4,500,000
Subtotal	122,446,000	104,123,000
Advanced power systems	26,700,000	26,700,000
Direct combustion:		
Demonstration plants	3,840,000	3,600,000
Other R. & D	50,876,000	47,876,000
Subtotal	54,716,000	51,476,000
Advanced research and supporting technology	57,826,000	57,826,000
Magnetohydrodynamics	68,825,000	96,500,000
Advanced control technology	14,000,000	
Equipment not related to construction	2,920,000	2,920,000
Subtotal, coal	522,845,000	521,957,000
Petroleum:		
Enhanced oil recovery	46,000,000	60,000,000
Oil from oil shale	29,350,000	29,350,000
Drilling, exploration and offshore technology	1,600,000	2,600,000
Product characterization and utilization	1,200,000	1,200,000
Equipment not related to construction	1,575,000	1,575,000
Subtotal, petroleum	79,725,000	94,725,000
Gas:		
Enhanced gas recovery	21,300,000	35,300,000
Gas from oil shale	4,350,000	4,350,000
Equipment not related to construction	225,000	225,000
Subtotal, gas	25,875,000	39,875,000
Program administration	9,006,000	9,006,000
Allocation of unobligated balance-clean boiler fuel		—12,810,000
General reduction		—63,000,000
Total, Fossil Energy Research and Development	637,451,000	589,753,000

Coal mines R. & D.—The full budget request of $70,546,000 is recommended for critical research on techniques for coal production and utilization. A $4,500,000 increase for coal preparation approved by the House has been deleted to conform to the Senate Committee authorization proposal.

Coal liquefaction.—An $11,000,000 increase recommended for liquefaction demonstration plants is directed at initiating projects for commercializing solvent refined coal (SRC) processes for both liquid and solid fuels. This action, providing $7,000,000 in operating ex-

penses for each process, complements the provision of $6,000,000 each in the pending fiscal year 1978 supplemental appropriation bill for completion of process design studies. A total of $152,010,000 is recommended separately for engineering and design under the construction account. SRC processes are the most advanced among the various coal conversion technologies and should move rapidly into the demonstration phase to help prove the value of second generation technology and to augment fuel supplies.

Under direct hydrogenation, the Committee has agreed with a $2,000,000 House reduction in the synthoil program but has restored $2,100,000 for the zinc chloride process that is cost-shared with industry.

The Committee has also restored the $13,500,000 House reduction in support studies and engineering evaluations for the Cresap liquefaction facility.

Coal gasification.—The Committee has concurred in House reductions of $7,371,000 for the synthane process, $3,000,000 for a low-Btu utility gas demonstration, and $2,310,000 for fixed bed gasification. Further, the Committee has deleted the full $11,610,000 requested for hydrogen from coal, a process that is being re-evaluated, and has reduced design and technical support by $3,000,000.

A House reduction of $2,000,000 for fluid-bed gasification has been restored, and a House increase of $4,500,000 for peat gasification is retained. The Committee also recommends an increase of $3,000,000 to continue the design of an experimental presssurized entrained flow gasifier-combined cycle system, and a $5,000,000 increase for in situ gasification for work on Eastern coalbeds.

The Committee has provided $1,200,000 for studies to explore the possibilities for near-term commercialization of existing and developing low and medium Btu coal gasification processes. These studies are intended to stimulate the use of this alternative energy source in heavily industrialized coal producing States, such as Indiana, to ease the threat of gas shortages and curtailments.

Direct combustion.—In agreement with the House, the Committee recommends reductions of $2,000,000 in industrial applications and $2,800,000 in support activities for direct combustion.

The Committee believes a more aggressive program for coal-fired combined cycle pressurized fluidized bed power generation should be pursued. Although the Committee did not recommend more funding it is felt that the DOE should reprogram up to $5,000,000 of existing funds to initiate more research in this promising area. This would allow support for adding a gas turbine to the International Energy Agency's pressurized fluidized bed in England. It would also fund systems evaluation of a U.S. power generation system.

Magnetohydrodynamics.—The recommendation for MHD involves a $27,675,000 increase in operating expenses, providing a total program of $100,000,000 including plant and capital equipment. The total funding, some $28,000,000 above fiscal year 1978 support, is to continue the acceleration of MHD research and development while maintaining a time frame that allows the gathering of necessary technical data for design of an engineering test facility. In particular, emphasis should be given to the superconducting magnet needed to complete the University of Tennessee MHD facility at Tullahoma.

Advanced control technology.—Although the Committee supports the consolidation in DOE of coal technology directed at pollution control, no funding is provided in conformance with the recommended Senate authorization. This position, if finally adopted, would continue this work in the Environmental Protection Agency.

In the absence of a budget estimate, no funding is recommended for university coal research laboratories as authorized by title VIII of the Surface Mining Control and Reclamation Act (Public Law 95-87). The Committee notes the Department's failure to finalize selection criteria and expects this to be corrected within 90 days so that the public will have an opportunity for comments and the Department will be in position to consider an appropriate budget request.

Petroleum.—The Committee recommends a $14,000,000 increase for enhanced oil recovery, providing the full recommended Senate authorization. The added funding will expedite research and development on micellar polymer, carbon dioxide flooding, and thermal recovery processes.

In agreement with the House, the Committee has added $1,000,000 to the petroleum technology budget to accelerate research planning for both offshore and onshore oil and gas drilling.

In approving the full budget request for oil shale, the Committee directs that $2,700,000 from other oil shale projects be used to investigate innovative above-ground hydrogen retorting processes capable of processing both Eastern and Western shale deposits.

Gas.—A total increase of $14,000,000 recommended for enhanced gas recovery is distributed as follows: Devonian shale, $6,000,000; methane recovery, $4,000,000; western gas sands, $4,000,000.

Energy research centers.—Funds provided for energy research centers are for a minimum of 1,145 full-time permanent personnel at these centers.

General reductions.—The Committee agrees with the House reduction of $12,810,000 as a means of reallocating unobligated funds for the now defunct Coalcon demonstration project. In addition, as a means to counter the mounting backlog in other obligating authority, the Committee has applied a general reduction to the fossil energy program of $63,000,000. Data supplied by DOE to the Committee in response to its budget hearings revealed that more than $400 million remained unobligated at the end of fiscal 1978's third quarter—nearly 60 percent of the total funds available for the current fiscal year. It is intended that this general reduction be allocated to marginal research and development and to those programs and activities with the greatest backlog in obligations, essentially those for which appropriations likely will not be needed in full during fiscal 1979. The reductions are to be allocated no later than December 31, 1978, and submitted to the House and Senate Appropriations Committees for advance approval.

FOSSIL ENERGY CONSTRUCTION

Appropriation, 1978	$72,800,000
Estimate, 1979	[1] 50,329,000
House allowance	27,139,000
Committee recommendation	163,919,000

[1] Includes —$45,021,000 budget amendment in S. Doc. 95-106 not considered by House.

The Committee recommends an appropriation of $163,919,000, increasing the budget estimate by $113,590,000 and the House allowance by $136,780,000. Details of the recommended allowances are shown below:

Project	*Budget estimate*	*Committee recommendation*
Solvent refined coal demo plant (SRC I) (78–2–d)	$20,000,000	$66,000,000
Low-Btu fuel gas small industrial demo plant (78–2–c)	9,000,000	9,000,000
High-Btu synthetic pipeline gas demo plant (76–1–b)	40,000,000	40,000,000
Low/medium-Btu fuel gas industrial demo plant (76–1–c)	14,000,000	14,000,000
General plant projects for ERC's (79–6)	9,000,000	6,200,000
Morgantown ERC warehouse (79–1–b)	350,000	350,000
MHD component development and integration facility (77–1–d)	3,000,000	3,000,000
Solvent refined coal demo plant (SRC II) (79–1–r)	.....	86,010,000
Mining and energy related industrial technologies education center/coal utilization facility	.....	570,000
High-Btu pipeline gas demo plant (77–1–b)	.....	4,000,000
Allocation of unobligated Coalcon funds	—45,021,000	—65,211,000

The principal change recommended by the Committee involves the commitment to launching two solvent refined coal (SRC) demonstration plants discussed earlier. A total of $152,010,000 is provided, an increase over budget estimates of $132,010,000.

The increase for project 77–1–b will initiate design of a second high-Btu gas demonstration plant to assure that all leading technologies can be tested for commercial feasibility.

The Committee has restored $200,000 of the House reduction in general plant projects for energy research centers to insure that work can begin on renovation of the Bartlesville center's administration and laboratory building.

The $65,211,000 general reduction, also in agreement with the House, completes the reallocation of appropriations left unobligated by the demise of the Coalcon demonstration project.

In approving the full $40,000,000 request for high-Btu gas demonstration plant 76–1–b, the Committee is aware of the Department's need to use funds from this account to begin detailed designs for both candidate processes, the slagging Lurgi fixed-bed gasifier and the COED pyrolysis technologies. In order to reach a sound technical decision the Committee intends that the Department complete the full phase I design for both candidate processes before a final selection is made.

The $570,000 recommended for a mine training and education facility is for preconstruction costs provided in the House version of the pending DOE authorization bill.

ENERGY PRODUCTION, DEMONSTRATION, AND DISTRIBUTION

Appropriation, 1978	$186,847,000
Estimate, 1979	[1] 254,692,000
House allowance	182,881,000
Committee recommendation	167,181,000

[1] Includes $20,000,000 budget amendment contained in S. Doc. 95–106 not considered by House.

The Committee recommends an appropriation of $167,181,000, reducing the budget estimate by $87,511,000 and the House allowance by $15,700,000. Allowances for principal activities are detailed below:

Activity	Budget estimate	Committee recommendation
High-Btu coal gas loan guarantees	$20,000,000	.....
Naval petroleum and oil shale reserves:		
NPR 1 and 2	169,594,000	$94,594,000
NPR 3	28,111,000	25,300,000
Oil shale reserves	1,300,000	1,300,000
Subtotal	199,005,000	121,194,000
Federal buildings solar program	25,668,000	25,668,000
Solar commericalization	2,713,000	2,713,000
Alternative fuels demonstration	1,000,000	1,000,000
Urban waste conversion loan guarantees	.....	10,000,000
Program administration	6,306,000	6,606,000

Coal gas loan guarantees.—A budget amendment for $20,000,000 to initiate Federal loan guarantees for the commercialization of first generation coal gasification technologies arrived too late for House consideration and for the Committee's budget hearings. Vague budget justifications in support of this proposal also led the Committee to defer a funding recommendation. If the Department wants to activate this program is should divulge how it plans to use the requested funding.

Naval petroleum and oil shale reserves.—For Naval petroleum reserves 1 and 2, the Committee learned that some $134 million in prior year appropriations remains uncommitted, about $100 million of it tagged for pipeline construction at reserve No. 1 (Elk Hills). The Committee also learned that delays in planned interstate pipeline construction will require postponement of the Elk Hills pipeline for at least 2 years. Accordingly, the Committee recommends a $75 million reduction to offset the funding surplus, leaving some $25 million in uncommitted funds for unanticipated needs.

The Committee has not concurred in specific operating and development reductions approved by the House for Elk Hills, although it continues to question the need for maximum production from this reserve at a time when the Government is undertaking an expensive program to buy and store oil.

The Committee has reduced the NPR-3 request by $2,811,000 in agreement with the House.

Solar projects.—The full budget request of $28,381,000 for solar projects has been approved. For the Federal buildings demonstration program, the allowance of $25,668,000 will provide a total of some $45,000,000 when combined with the fiscal year 1978 supplemental appropriation that remains available.

Urban waste loan guarantees.—An appropriation of $10,000,000 is recommended to initiate loan guarantees for commercial demonstration of projects to convert urban wastes to energy. Of the total, up to $5,000,000 will fund feasibility and design studies and at least $5,000,000 will be reserved in a separate fund for loan guarantees. Under existing authorizations, no guarantee for an urban waste project will be issued without 90 days notice to Congress and without specific authorization for any project exceeding $50 million.

Program administration.—An additional $300,000 is recommended for program administration to strengthen the coal mine loan guarantee program. Nearly $7 million was appropriated in fiscal year 1978 to initiate this program, but little progress has been made to

date. The Committee will expect the administrative increase to expedite financial support for small coal mine operators.

ENERGY CONSERVATION

Appropriation, 1978	$594,024,000
Estimate, 1979	[1] 927,731,000
House allowance	897,001,000
Committee recommendation	754,031,000

[1] Includes $22,180,000 budget amendment contained in S. Doc. 95-106 not considered by House.

The Committee recommends an appropriation of $754,031,000, reducing the budget estimate by $173,700,000 and the House allowance by $142,970,000. Allowances are detailed below:

Activity	*Budget estimate*	*Committee recommendation*
Residential and commercial:		
Buildings and community systems	$62,800,000	$70,800,000
Weatherization	198,950,000	198,950,000
Other residential and commercial	5,450,000	5,450,000
Industrial	49,100,000	42,100,000
Transportation	97,500,000	97,200,000
Federal programs	500,000	500,000
State/local programs:		
State energy conservation program (EPCA)	47,800,000	47,800,000
Supplemental State energy conservation (EPCA)	10,000,000	10,000,000
Schools and hospitals	300,500,000	100,100,000
Local government buildings	32,500,000	7,300,000
Energy impact assistance	.....	30,000,000
Multisector:		
Improved conversion efficiency	78,000,000	89,200,000
Energy extension service	25,000,000	35,000,000
Marketing	480,000	480,000
Inventors program	2,000,000	2,000,000
Appropriate technology	8,000,000	8,000,000
Program administration	9,151,000	9,151,000

Residential and commercial.—A net increase of $8,000,000 is recommended for residential and commerical conservation programs, comprised of an $8,000,000 increase in the $1,000,000 request for home heating oil conversion, a $5,000,000 increase for gas-fired heat pumps, and deletion of the $5,000,000 request for dispersed energy systems demonstrations. Under the oil heating increase, a comprehensive efficiency improvement program would be undertaken in cooperation with industry. This will include an intensified effort to foster widespread use of the latest energy-efficient systems to be in full operation during the 1978–79 heating season in 12 States. The increase for gas-fired residential heat pumps will accelerate research to achieve commercialization within 4 to 5 years and support development of two commercial size heat pump systems. The Committee, meanwhile, deferred the late-arriving request for dispersed demonstrations for lack of specific authorization and sufficient justification.

In approving the full budget request for weatherization assistance to low-income homeowners, the Committee expects the Department to utilize regulations which, to the fullest extent possible, will be consistent with those for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended. Those regulations provide flexibility and more equitable state allocations needed for the achievement of an effective program.

Industrial.—The Committee recommendation for industrial conservation programs includes $9,000,000 for cogeneration, restoring $4,000,000 of the $11,000,000 House reduction, and the full $300,000 for commercialization and technology transfer that was deleted by the House.

The Committee agrees with the House that most of the budgeted program for cogeneration would mainly demonstrate existing technology. Further, considerable duplication of cogeneration work exists within the Conservation program; for example, nearly $15 million is provided for advanced cogeneration work under improved conversion efficiency. The House allowance has been increased only to insure an increased level of Federal-industrial cooperation in promoting uses of cogeneration. The recommendation for industrial cogeneration provides a $4 million increase over fiscal year 1978.

Transportation.—A net reduction of $300,000 in transportation conservation includes decreases of $200,000 for nonhighway transport systems and $400,000 for new concepts and impact assessments, in agreement with the House, and an increase of $300,000 for fleet testing alcohol fuels. Utilizing other available funds, the Committee recommendation provides a total of $500,000 for alcohol fuels testing, which will initiate a 3 year, $3.5 million program. Utilizing Government-operated vehicles, the program will test the reliability of ethanol/gasoline and methanol/gasoline blends as alternatives to straight petroleum products.

Federal programs.—Pursuant to budget amendment proposals, the Committee has deleted the $9,690,000 originally requested for Federal vanpooling. The House had allowed $700,000 for this program. The $500,000 allowance is to continue the Federal energy management program.

State/local programs.—A net reduction of $195,600,000 is recommended in State and local conservation assistance, with a $30,000,000 increase to initiate energy impact assistance offset by reductions of $225,600,000 in public building conservation.

Reductions in programs for schools and hospitals and for local government buildings are to adjust for fiscal year 1978 appropriations that stacked up awaiting enactment of required authorizations in the pending National Energy Act. It is now clear that $200,400,000 for schools and hospitals and $25,200,000 for local government buildings appropriated earlier this year, contingent upon authorization, will not be utilized before fiscal 1979. Approval of the full budget estimate would overload these programs at a time when funding constraints demand high priority. The Committee recommendation will provide a total fiscal year 1979 availability of $300,500,000 for schools and hospitals and $32,500,000 for local government buildings when combined with carryover funding.

The energy impact assistance is also recommended subject to enactment of the NEA package. Although there is no accompanying budget request, the President's energy supply initiatives proposed a total of $125 million in similar State assistance. The bulk of the $30,000,000 recommended by the Committee will be administered by the Department of Agriculture in the form of planning and development grants to areas impacted by increased coal or uranium production. It is the Committee's intent that these funds shall be adminis-

tered as prescribed in the pending coal conversion legislation (H.R. 5146).

Multisector.—The Committee recommends $35,000,000 for the Energy Extension Service, increasing the budget request by $10,000,000 and the House allowance by $20,000,000, and restoration of the $480,000 request for marketing. Further, $10,000,000 has been added for commercial demonstration of first generation fuel cell technology. Otherwise, the Committee has agreed to House changes involving increases of $1,500,000 for heat engines and heat recovery and $5,000,000 for fuel cell R. & D., and a reduction of $5,300,000 in combustion systems. The Committee further concurs in the House provision that $2,500,000 be available, within existing funds, for accelerating the thermionics program.

The fuel cell commercialization demonstration program is designed to demonstrate the feasibility of fuel cell technology for a number of power applications. Both centralized utility applications and more dispersed modular applications should be funded and selected competitively.

The Committee has endorsed the increased budget estimate of $8,000,000 for appropriate technology, $5,000,000 above the fiscal year 1978 level. Contracts for technical assistance in administering this program should be awarded to the most qualified applicants on a competitive basis.

The Committee strongly supports the small inventors program and, in addition to approving the $2,000,000 budget estimate, directs that $2,000,000 more go to the program from within available funds.

ECONOMIC REGULATORY ADMINISTRATION

Appropriation, 1978	$84,240,000
Estimate, 1979	98,933,000
House allowance	94,733,000
Committee recommendation	94,733,000

The Committee recommends an appropriation of $94,733,000, the same as the House allowance and a reduction of $4,200,000 in the budget estimate. Funding by activity is displayed below:

Activity	*Budget estimate*	*Committee recommendation*
Coal utilization	$2,930,000	$2,930,000
Utilities conservation	15,793,000	15,793,000
Regulation:		
Petroleum	4,515,000	3,815,000
Compliance	47,370,000	47,370,000
Other multiresource	7,588,000	7,088,000
Emergency preparedness	10,590,000	7,590,000
Program administration	10,147,000	10,147,000

Language included in the House-passed bill would forbid the Economic Regulatory Administration to fund intervenors in regulatory proceedings, mainly because of a concern over equity. The administration has submitted criteria to be used in deciding which intervenors, groups or individuals, will receive funding, and the Committee recommends the prohibition be deleted. Intervenor funding is not to be used to support public interest groups or even to guarantee in every case that all interests be heard. It should be directed to those interests capable of making valuable contributions

which could not participate without assistance. The Committee intends that such funding shall be carefully administered and held to practical levels.

STRATEGIC PETROLEUM RESERVE

Appropriation, 1978	$3,179,889,000
Estimate, 1979	4,250,464,000
Committee recommendation	3,006,854,000

The Committee recommends an appropriation of $3,006,854,000, reducing the budget estimate by $1,243,610,000 and the House allowance by $1,077,770. As detailed in the following activity table, the reduction has been applied entirely to the request for purchasing and transporting petroleum for the reserve:

Activity	*Budget estimate*	*Committee recommendation*
Petroleum acquisition and transportation	$4,129,280,000	$2,885,670,000
Standby operational storage	3,290,000	3,290,000
Site design and construction	75,000,000	75,000,000
Planning	12,200,000	12,200,000
Site acquisition	25,000,000	25,000,000
Program administration	5,694,000	5,694,000

The budget estimate was directed at the congressionally approved goal of storing 500 million barrels of petroleum by the end of calendar 1980. Consequently, funds were requested to cover anticipated purchases in fiscal year 1980 as well as fiscal year 1979 because of the leadtime involved in large scale acquisition of foreign oil. Following the budget submission, however, the Department acknowledged that the acquisition and storage schedule had fallen 6 months or more behind schedule. Other problems have since surfaced, including difficulties in leaching out underground storage reservoirs, that threaten to create additional delays.

The Committee also learned during its budget hearings that more than $2.5 billion of the requested funding could be deferred until fiscal year 1980 without slowing the program or significantly increasing its costs.

Requested funding also included an allowance for the administration's proposed crude oil equalization tax—$531 million in total. The fate of this proposal in Congress remains uncertain at best.

Considering these factors, the Committee is recommending a sizeable reduction by disallowing fiscal year 1980 acquisition funds requested for all but the first quarter—$937,110,000—and by eliminating the projected costs of the crude oil equalization tax on the balance—$306,500,000.

The Committee wishes to stress that this reduction is merely a deferral of costs to which the Congress and the Nation are fully committed. The recommendation should in no way be interpreted as a softening in the Committee's support for achieving a 500 million barrel reserve by December of 1980. It should be noted that funds included in this recommendation will also permit work to begin on a third 250 million increment should additional reserve capacity be authorized.

In the unlikely event that additional funding could be justified for accelerated purchases, there will be ample opportunity to consider

such needs in fiscal year 1979 supplemental appropriations or in the regular budgetary process for fiscal year 1980.

ENERGY INFORMATION ADMINISTRATION

Appropriation, 1978	$48,062,000
Estimate, 1979	63,405,000
House allowance	59,286,000
Committee recommendation	59,286,000

The Committee recommends an appropriation of $59,286,000, the same as the House allowance and a reduction of $4,119,000 in the budget estimate. Recommendations are detailed on the following comparative table:

Activity	*Budget estimate*	*Committee recommendation*
Information analysis	$18,523,000	$17,368,000
Collection and dissemination	32,582,000	30,918,000
ADP services to other functions	12,300,000	11,000,000

These reductions may impose some restraint on the energy information program, but the Committee believes that economies can be achieved within the consolidation of activities, which was a principal goal of the energy organization act. Any additional data validation needs, if fully justified, can be considered in a supplemental appropriation.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

Appropriation, 1978	$428,891,000
Estimate, 1979	472,852,000
House allowance	490,048,000
Committee recommendation	481,127,000

The Committee recommends an appropriation of $481,127,000, increasing the budget estimate by $8,275,000 and reducing the House allowance by $8,921,000. Details of the recommendation are shown in the following comparative table:

Activity	*Budget estimate*	*Committee recommendation*
Patient care:		
Hospital care	$144,692,000	$149,692,000
Contract care	104,310,000	90,910,000
Indian health manpower	.....	6,788,000
Ambulatory care	83,867,000	84,361,000
Preventive health	135,926,000	143,235,000
Model diabetes program	.....	925,000
Lac du Flambeau clinic	.....	779,000
Bethel Hospital quarters leasing	.....	40,000
Red Lake Hospital staff equivalency	.....	450,000
Health services at former Kincheloe AFB	.....	947,000
Whiteriver Hospital operations	.....	−1,721,000
Program management	4,057,000	4,057,000

Patient care.—The net reduction of $8,600,000 for patient care includes an increase of $5,000,000 for hospital services and a decrease of $13,400,000 in contract care. The Committee has agreed to

a House shift of $3,500,000 from contract care to direct patient care and has further reduced contract care by $9,900,000, deleting from the base request a portion of the $19,000,000 congressional add-on in fiscal year 1978 for unmet surgical needs. The $5,600,000 of that increase left in the contract care base is to cover unbudgeted cost increases and provide $731,000 in health services for the Siletz Tribe of Oregon. The Committee learned that the need for elective surgery was overestimated by IHS, necessitating a reprograming of fiscal year 1978 funds. The changes described above will correct the funding inequity in fiscal year 1979. The balance of the hospital services increase, $1,500,000, is for emergency medical services previously supported by other Federal programs.

Indian health manpower.—In agreement with the House, the Committee recommends restoration of this program authorized by the Indian Health Care Improvement Act and implemented in fiscal year 1978. This funding will also support the Indians-into-Medicine and Masters of Public Health education programs previously funded by the Bureau of Indian Affairs.

Ambulatory care.—The recommended net increase of $494,000 for ambulatory care is comprised of the following changes:

Leased clinics in Alaska	+$608,000
Swift Bird facility clinic, S. Dak	+100,000
Health care improvement demonstration project, Alaska	+150,000
Delayed start-up costs, Espanola clinic	—364,000

Preventive health.—The $7,973,000 increase recommended for preventive health activities is to be allocated as follows:

Mental health	+$664,000
Tribal health program development	+1,000,000
Implementation of Public Law 93–638	+3,117,000
Urban Indian programs	+3,192,000

The increase for mental health is for the Children's Village health facility, a center for handicapped children in New Mexico. Funds will cover leasing and staffing needs for completing the development phase and initiating health and education services in cooperation with the Bureau of Indian Affairs. These funds will enable IHS to sign a lease with the Pueblo of Laguna, which will construct the facility.

Recommended increases for Public Law 93–638 implementation and for tribal and urban health programs will partially restore the fiscal year 1978 funding levels.

IHS continues to budget for apparently redundant tribal health training, contracting and development programs. These should be consolidated under a single program of self-determination services.

In agreement with the House, the Committee recommends increases of $779,000 for the expanded Lac du Flambeau clinic in Wisconsin and $925,000 to initiate a model diabetes program. The Committee also concurs in the House reduction of $1,721,000 to account for delayed start-up of the Whiteriver Hospital in Arizona.

The Committee has approved a $40,000 increase to initiate the leasing of personnel quarters for the Bethel hospital in Alaska. This relatively small amount will fund the leasing of up to 40 units in the final month of fiscal year 1979. Based on current IHS projections, up to 173 units of housing will be required when the new hospital is in

full operation. Estimated annual leasing costs for these quarters will then exceed $2 million.

The $450,000 increase for the tribally-operated Red Lake Hospital, Minn., is to assure personnel compensation and retirement benefits commensurate with those available to Federal Indian health personnel. The funding is based on HEW and Civil Service Commission evaluations.

The Committee has included $947,000 to establish Indian health services at the former Kincheloe Air Force Base hospital in Michigan. This will provide initial startup for a program that has the support of State and local governments and the Michigan Inter-Tribal Council. Any expansion of this program in the future should be fully justified on a cost effective basis.

Consistent with provisions under the Bureau of Indian Affairs, the Committee has included language making funds for self-determination contracts available for two fiscal years.

INDIAN HEALTH FACILITIES

Appropriation, 1978	$71,257,000
Estimate, 1979	69,955,000
House allowance	70,555,000
Committee recommendation	76,960,000

The Committee recommends an appropriation of $76,960,000, increasing the budget estimate by $7,005,000 and the House allowance by $6,405,000. Details of project funding are shown below:

Project	*Budget estimate*	*Committee recommendation*
Hospitals:		
New and replacement:		
Bethel, Alaska	$11,000,000	$11,000,000
Ada, Okla	3,400,000	3,400,000
Red Lake, Minn	900,000	1,816,000
Cherokee, N.C	415,000	415,000
Chinle, Ariz	.....	3,000,000
Tahlequah, Okla., planning and design	.....	550,000
Modernization and repair:		
Mount Edgecumbe, Alaska	1,900,000	914,000
Gallup, N. Mex	1,800,000	1,800,000
Ft. Yates, N. Dak	.....	125,000
Alternative fuel capabilities	300,000	300,000
Sanitation facilities:		
New and improved homes	50,240,000	50,240,000
Standing Rock Reservation	.....	400,000
Personnel quarters	.....	3,000,000

Last year the Committee imposed a moratorium on new facility construction in response to preliminary findings of an ongoing investigation by the General Accounting Office. These findings called into question the IHS planning methodology and its criteria for establishing construction priorities. The House appropriations Committee subsequently agreed that no new starts should be funded until GAO completed its studies and an agreement could be reached on the size and scope of future Indian health care facilities.

Recent meetings involving the Committee and officials of GAO and IHS led to a preliminary agreement on hospital planning procedures that will considerably reduce the requirement for inpatient facilities. Although a final GAO report has not yet been

submitted, the Committee believes sufficient headway has been made to justify a limited resumption of new project support. Accordingly, the Committee has included funding for planning and design of the Tahlequah, Okla., replacement facility and $3,000,000 to initiate construction of the Chinle Hospital, Ariz. Both projects were into the funding process when the moratorium was imposed.

Funds for the Tahlequah hopsital are contingent upon IHS completing a study on the extent that services and facilities can be shared with the existing community hospital. The Committee will need to have the results of this study and the recommended size of the hospital before considering any further funding.

Although the planned size of the Chinle facility has now been reduced from 125 to 67 beds, a large gap remains between this latest IHS proposal and the GAO recommendations, mainly attributed to beds for alcoholism and other mental health needs. The Committee will need full justification for these additional bed needs and a resolution of the remaining differences between GAO and IHS before funds are committed to this project.

The Committee cannot responsibly recommend any further new construction until the IHS planning and priority procedures have been properly updated. In particular, the importance of a reliable and professional priority system, directed at meeting the most urgent Indian health care needs, cannot be overemphasized. The Committee will require the development and application of such a system before considering any additional new facilities.

Further, reliable priorities are equally important to funding decisions for new or expanded services under the preceding operating account. In the future, the IHS should develop a priority system for such services, based on need and supported by data on service population, per capita cost analyses, availability of existing direct or contractual health services, and other pertinent information. The Department of Health, Education, and Welfare should concurrently institute an effective review and verification process for these proposals.

An increase of $916,000 is recommended to cover cost overruns at the Red Lake hospital which is being constructed by the tribe under contract with IHS. It is the Committee's understanding that these cost increases are attributable mainly to an unauthorized expansion in the planned size of the new facility.

The lack of proper controls that led to this situation is a cause for serious concern. The Committee will expect a full report from IHS by January fo 1979 on controls that have been instituted to prevent project overruns of this kind in the future.

Funds requested for modernization and alternation of the Mount Edgecumbe facility have been deleted pending a determination on a proposed combined health care system in Sitka, Alaska. Should a new community hospital be constructed, alternative uses can be found for the Mt. Edgecumbe facility. The reduced funding for Mt. Edgecumbe will finance a new heating plant and maintenance shop.

The $125,000 increase recommended for Ft. Yates Hospital will fund improvements needed for accreditation of this facility.

Under sanitation facilities, $400,000 is provided to meet high priority water and sanitation needs for existing housing on the Standing Rock Reservation in North and South Dakota.

An increase of $3,000,000 is recommended to initiate construction of personnel quarters for the Whiteriver hospital, which is scheduled to go into operation in fiscal year 1979.

Office of Education

INDIAN EDUCATION

Appropriation, 1978	$59,660,000
Estimate, 1979	75,735,000
House allowance	73,735,000
Committee recommendation	71,735,000

The Committee recommends an appropriation of $71,735,000, a decrease of $4,000,000 below the budget estimate and $2,000,000 below the House allowance. The recommendation is detailed in the following table:

Activity	*Budget estimate*	*Committee recommendation*
Part A—Entitlements	$48,000,000	$48,000,000
Part B—Special projects for children	19,000,000	15,500,000
Part C—Special projects for adults	6,430,000	5,930,000
Administration	2,305,000	2,305,000
Total	75,735,000	71,735,000

Changes in the budget estimate include reductions of $2,000,000, in agreement with the House, for part B capability building projects, and $1,500,000 under part B and $500,000 under part C for regional dissemination centers.

The Committee shares the concern of the House over the rapid expansion of "capability building projects" in the absence of any evaluation. Accordingly, the Committee recommends that such an evaluation be conducted prior to any future requests for expanding the funding levels of the program, and that the results be presented to the Senate and House Committees.

Although the Committee recognizes the importance of dissemination of educational information, it was learned during budget hearings that the Office of Education was unsure of the number, location, and function of the proposed dissemination centers. The Committee cannot provide funding for an effort of this magnitude until it is properly planned and justified.

Within the allowance for admistration, not to exceed $200,000 is provided for the operation of the National Advisory Council on Indian Education, in agreement with the House.

Office of the Assistant Secretary for Education

INSTITUTE OF MUSEUM SERVICES

Appropriation, 1978	$4,000,000
Estimate, 1979	7,752,000
House allowance	7,752,000
Committee recommendation	8,000,000

The Committee recommends an appropriation of $8,000,000, an increase of $248,000 over the budget estimate and the House allowance. The recommended allowance includes $7,400,000 for grants to museums and $600,000 for administration.

Formulation of the budget submission for fiscal year 1979 was based on the assumption that the average grant would be $25,000. Subsequently, the National Museum Services Board determined that the average grant should be approximately $10,000. The increase over the budget estimate for administration will provide funding for five additional permanent positions to handle the increased workload resulting from the decision of the Museum Services Board. The Committee will expect the institute to hire personnel qualified in administration of Federal grant programs.

The Committee remains concerned over the possibility of duplication of grants between the institute and the National Foundation on the Arts and Humanities. It is expected that the institute will work closely with the endowments to develop a system which will eliminate any program overlap. The Committee directs that a joint report be made not later than October 1, 1978, on the status of implementing such a system.

Navajo and Hopi Relocation Commission

Appropriation, 1978	$2,050,000
Estimate, 1979	13,129,000
House allowance	8,752,000
Committee recommendation	8,692,000

The Committee recommends an appropriation of $8,692,000, a decrease of $4,437,000 below the budget estimate and $60,000 below the House allowance. The recommended allowance is distributed as follows:

Activity	*Budget estimate*	*Committee recommendation*
Operation of the Commission	$1,000,000	$930,000
Assistance payments	755,000	250,000
Relocation payments	11,374,000	7,512,000
Total	13,129,000	8,692,000

The funding levels recommended for relocation and assistance payments, when combined with previous appropriations, will allow for the relocation of an estimated 500 families. The Committee agrees with the House that this level of funding will be adequate for the activity likely to be experienced during the coming fiscal year.

Reductions related to the operation of the Commission consist of $10,000 for legal services and $60,000 for compensation of the Commissioners. Legal services are to be provided by the Office of the Solicitor of the Department of Interior. Bill language limits the total compensation for all three Commissioners to $33,000 resulting in a $60,000 reduction in the budget estimate. This limitation includes pay, travel, and per diem costs, and reflects a funding level which should be adequate for the part-time work which the Commissioners must perform.

The Committee was disturbed to learn that for a time the Commission has been operating without a full-time executive director, and that the Commissioners were instead performing the director's management functions. The Commission will be expected to select and hire an executive director immediately.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

Appropriation, 1978	$88,238,000
Estimate, 1979	96,307,000
House allowance	96,841,000
Committee recommendation	95,540,000

The Committee recommends an appropriation of $95,540,000, a reduction of $767,000 below the budget estimate and $1,301,000 below the House allowance. The recommended level is detailed by activity in the following table:

Activity	*Budget estimate*	*Committee recommendation*
Science	$36,638,000	$36,759,000
History and art	15,646,000	15,545,000
Public service	2,213,000	2,193,000
Museum programs	7,417,000	7,373,000
Special programs	1,842,000	1,452,000
Support activities	26,038,000	26,038,000
Administration	6,513,000	6,513,000
Pay cost reduction	.....	—333,000

The net increase of $121,000 for the science program is the result of the following increases and decreases, in agreement with the House: Research support, —$165,000; radiation biology laboratory nonrecurring travel, —$5,000; National Anthropological Film Center, —$9,000; astrophysical laboratory, +$300,000. The increase for the astrophysical laboratory will allow for completion of the multimirror telescope and acquisition of instruments to evaluate its performance. The Committee has restored the $260,000 House reduction related to exhibition costs of the National Air and Space Museum.

The reduction under history and act includes decreases of $25,000 for the Cooper-Hewitt Museum grant replacement; $57,000 increased exhibition costs, National Collection of Fine Arts; and $19,000 for increased distribution of the *Journal,* published by the Archives of American Art.

The reduction of $20,000 under public service denies the increase for museum-related performances by the division of performing arts.

The net reduction of $44,000 in museum programs consists of an increase of $31,000, in agreement with the House, for conservation training, and a decrease of $75,000 related to accelerating acquisition of books and publications for the Smithsonian libraries.

The reduction of $390,000 in special programs deletes the budget request for the research awards program. This program, once administered by the private Smithsonian Research Foundation, is now handled directly through the Office of the Under Secretary. While the Committee recognizes the importance of individual research support, it continues to question the need for this special program. The Smithsonian already has some $17 million for research budgeted under the various museums. If an additional research awards program is considered necessary, the Committee suggests that the Smithsonian consider using trust funds.

The Committee recommendation deletes House additions of $500,000 each for a pilot art bank program and acceleration of collections inventory.

The Committee shares the concern of the House over the efforts of the Board of Regents to establish a $50 million endowment with profits from private Smithsonian activities. A fund of this magnitude would be well beyond the amount necessary to provide flexibility in conducting Smithsonian affairs. The Committee requests that the Board of Regents consider reducing the level of this endowment and using a larger portion of trust funds to pay for current programs.

Closely related to this issue is the matter of utilization of Federal and trust funds. In response to a GAO recommendation that the Smithsonian establish clear policies governing the use of Federal and trust funds, a series of draft guidelines was developed. The Committee considers these guidelines to be vague and unresponsive, and urges the Board of Regents to work rapidly toward creating and implementing a detailed and specific policy that meets the approval of both the Senate and House Committees.

The Committee has also been concerned that Board of Regents meetings continue to be closed to the public. At recent budget hearings the Smithsonian indicated that minutes of the meetings would be made available. More than 11 weeks after the Regents May meeting, the Committee had not received this information. Open meetings would serve to improve relations and overcome communication gaps.

MUSEUM PROGRAMS AND RELATED RESEARCH

(Special Foreign Currency Program)

Appropriation, 1978	$4,000,000
Estimate, 1979	3,700,000
House allowance	3,700,000
Committee recommendation	3,700,000

The Committee recommends an appropriation of $3,700,000, the same as the budget estimate and House allowance, for grants to U.S. institutions for field research in countries where excess foreign currencies are available.

SCIENCE INFORMATION EXCHANGE

Appropriation, 1978	$1,777,000
Estimate, 1979	2,218,000
House allowance	2,000,000
Committee recommendation	2,000,000

The Committee recommends an appropriation of $2,000,000, a reduction of $218,000 below the budget estimate and the same as the House allowance.

During budget hearings, it was learned that little had been done to comply with the Committee directive to effect the rapid return of the exchange to Federal status. The disposition of the exchange is currently under review as part of the President's reorganization project, and the Board of Regents stands ready to accept any recommendation made by the Office of Management and Budget. The General Accounting Office report on Smithsonian fiscal practices last year recommended termination of the exchange as a

private cooperation. The Committee directed that immediate steps be taken to smooth the transition of the exchange to Federal status. One full year has passed and no definitive action has been taken.

Accordingly, the Committee directs that the Smithsonian consult immediately with the Department of Commerce and the Office of Management and Budget regarding termination of corporate status, conversion of employees to civil service status, and consolidation of operations within the National Technical Information System (NTIS). By consolidating with NTIS, exchange operations will be subject to normal fiscal and budgetary controls which are applicable to other Federal programs. Transfer of the exchange and any remaining funds shall be made to the Commerce Department not later than July 1, 1979. The Committee expects the Smithsonian and the Commerce Department to forward a joint proposal to OMB in time to meet this deadline.

The Committee continues to believe that user charges should bear a greater portion of the operating costs of the exchange and has reduced Federal appropriations accordingly. The recommended funding level will allow the data base to be maintained in an appropriate state until the decision as to the final status of the exchange is made by the administration.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

Appropriation, 1978	$2,500,000
Estimate, 1979	3,900,000
House allowance	3,900,000
Committee recommendation	3,900,000

The Committee recommends an appropriation of $3,900,000, the same as the budget estimate and the House allowance, for improvements to the National Zoological Park at Rock Creek and at the Front Royal Conservation and Research Center.

RESTORATION AND RENOVATION OF BUILDINGS

Appropriation, 1978	$2,245,000
Estimate, 1979	3,100,000
House allowance	2,100,000
Committee recommendation	1,950,000

The Committee recommends an appropriation of $1,950,000, a reduction of $1,150,000 below the budget estimate and $150,000 below the House allowance.

Major projects, improvements, or repairs are budgeted individually under this account or under the appropriation for the buildings involved. The recommended level deletes the $1,000,000 reserve for unanticipated minor repairs. The Committee feels that the amounts budgeted for the various agencies and bureaus of the Smithsonian contain sufficient flexibility to accommodate repairs that arise unexpectedly. The Committee recommendation also denies the $150,000 requested for a maintenance building at the Chesapeake Bay Center for Environmental Studies. All other construction and land acquisition for the Center has been accomplished with nonappropriated funds. The Smithsonian maintains all property at the Center could be disposed of without prior congressional approval. Until this

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situation is rectified, the Committee will not approve Federal investment in real property at the Center.

CONSTRUCTION

Appropriation, 1978	$325,000
Estimate, 1979	575,000
House allowance	575,000
Committee recommendation	575,000

The Committee recommends an appropriation of $575,000 the same as the budget estimate and the House allowance, to begin design and planning for a museum support center to be located at Silver Hill, Md.

National Gallery of Art

SALARIES AND EXPENSES

Appropriation, 1978	$14,509,000
Estimate, 1979	19,305,000
House allowance	19,305,000
Committee recommendation	18,455,000

The Committee recommends an appropriation of $18,455,000, a reduction of $850,000 below the budget request and the House allowance.

With the dedication of the East Building on June 1, 1978, the Gallery expanded its available space by over 100 percent. In preparation for this growth, budget requests over the past several years have included significant program increases. Personnel additions since fiscal 1976 amount to 347 permanent positions, or an 82-percent increase. The fiscal 1976 appropriation for the Gallery was $7,759,000. The current request of $19,305,000 represents a 148-percent increase over that level. Curatorial and education programs have sustained small increases over the years, and recent budget requests have included funding to furnish and equip both the East Building and the connecting link. The fiscal year 1979 budget request continues all of these initiatives.

While supportive of the programs of the National Gallery, the Committee has recommended an $850,000 reduction to be allocated as follows:

Special exhibits and art display program	—$500,000
Furnishings and equipment	—178,000
Personnel costs	—172,000

The special exhibits and art display program is funded with appropriations, endowment income, and donated funds. As proposed in the budget request, Federal funds would now cover more than one-half the total. The reduction recommended would return Federal support closer to one third. Although the need for properly furnishing and equipping the newly constructed spaces at the Gallery is recognized, the Committee feels that certain savings can be made. Accordingly, a reduction of $178,000, or 15 percent of the amount requested, is recommended. Personnel cost reductions apply to new positions (—7 positions and $132,000) and pay and personnel costs for positions currently on board (—$40,000).

Woodrow Wilson International Center for Scholars

Appropriation, 1978	$1,256,000
Estimate, 1979	1,317,000
House allowance	1,567,000
Committee recommendation	1,567,000

The Committee recommends an appropriation of $1,567,000, the same as the House allowance and an increase of $250,000 over the budget estimate. The increase is directed toward reducing efforts in private fund raising, allowing the Center to strengthen its program mission.

National Foundation on the Arts and the Humanities

SALARIES AND EXPENSES

Appropriation, 1978	$194,000,000
Estimate, 1979	223,260,000
House allowance	221,260,000
Committee recommendation	219,460,000

The Committee recommends an appropriation of $219,460,000, a reduction of $3,800,000 below the budget estimate and $1,800,000 below the House allowance. This level of funding will provide $111,710,000 for the National Endowment for the Arts and $107,750,000 for the National Endowment for the Humanities.

The recommendation for the NEA is $450,000 below the budget estimate. Reductions include $150,000 for travel and $300,000 for contractual services. The budget request included an unspecified amount for a representational fund for the Chairman. Currently there is no authorization for such a fund, and the Committee expects that none will be created without specific authority.

The recommendation for NEH is $3,350,000 below the budget estimate. A general reduction of $2,500,000 is partly offset by an increase in the matching grants appropriation. The Committee was disturbed to learn that some Humanities grants require as little as 10 percent matching. This redirection of funding will insure that a 50 percent match is received. Administrative reductions totaling $850,000 are detailed in the following table:

New personnel costs (—12 positions)	—$325,000
Increased compensation for panelists and Council members	—110,000
Travel	—27,000
Consultants	—150,000
Printing, supplies, and equipment	—238,000
Total	—850,000

The Committee wishes to re-emphasize its directive that the Endowments make no grants to agencies or organizations which receive their principal funding from Federal appropriations.

The Committee remains concerned over the possible duplication of grants between the Endowments and the Institute of Museum Services. It is expected that the Endowments will work closely with the Institute to develop a system which will eliminate any program overlap. The Committee directs that a joint report on the status of implementing such a system be made not later than October 1, 1978.

The Committee has approved language which would provide $1,400,000 from each Endowment to cover the costs of the White House Conferences on the Arts and the Humanities. This language was proposed in a budget amendment that arrived after the House bill was reported. In order to fund these conferences, each Endowment has revised its program allocations as displayed in the following table:

Activity	Original submission	Revised estimates
National Endowment for the Arts:		
Architecture	$3,708,000	$3,654,000
Dance	7,742,700	7,625,700
Education	5,470,000	5,389,000
Expansion arts	7,680,000	7,566,000
Federal-State	23,513,500	23,391,500
Folk arts	1,900,000	1,873,000
Literature	4,100,000	4,040,000
Media arts	7,752,400	7,625,400
Museums	10,798,000	10,629,000
Music	12,211,500	11,953,500
Special projects	5,722,600	5,636,600
Theatre	6,471,300	6,361,300
Visual arts	5,090,000	5,015,000
White House Conference	.....	1,400,000
National Endowment for the Humanities:		
Public programs	24,500,000	23,500,000
Education programs	21,400,000	21,000,000
Fellowship programs	14,600,000	14,600,000
Research grants	13,200,000	13,200,000
State programs	20,100,000	20,100,000
Special projects	4,250,000	4,250,000
Youth programs	1,500,000	1,500,000
Planning and assessment	750,000	750,000
White House Conference	.....	1,400,000

In forwarding these revisions to the Committee, both Endowments indicated that the changes did not yet have review and approval by the appropriate national council. Nevertheless, the revised estimate column in the above table reflects funding levels recommended by the Committee for fiscal year 1979. Any changes from these amounts should be handled within the reprograming guidelines established by the Committee.

In its report, the House Committee earmarked $750,000 in arts and humanities grants for organizations and groups in the District of Columbia.

The Committee is reluctant to earmark endowment grant funds for any particular area, group or individual. This could establish an unmanageable precedent. However, the Committee also recognizes the special needs of cultural organizations in the Nation's Capital. Without designating any specific funding level, the Committee urges the endowments to recognize these special needs in their grant allocations.

The House also supported the request of both Endowments to activate the Federal Council on the Arts and the Humanities by detailing employees and providing funding for the staff of the Council. While the Committee is aware of plans to reactivate the council, such action requires full Congressional approval under provisions of Public Law 95–81. The Committee will consider funding the Federal Council when an appropriation request is submitted and justified by the administration.

The Committee is displeased with the National Endowment for the Arts response to requests for information necessary for a proper review of its budget request. Material requested at budget hearings over 4 months ago has not yet been received. At that hearing, the Endowment expressed its desire to seek the Committee's guidance on material required for consideration of funding the White House Conference and the Federal Council, yet repeated staff attempts to obtain detailed information were unfruitful. The Committee suggests that the Chairman have the Arts Endowment take whatever steps necessary to improve communications and respond to Committee requests in a timely and professional manner.

In response to earlier Committee recommendations, the Endowments established programs to provide funding to small, previously ineligible groups. The Committee encourages the Endowments to continue this effort by giving every possible consideration to aiding new, nonprofessional talent. It is the intent of the Committee that the Endowments integrate this approach into all program categories and not simply rely on State councils to aid struggling groups. Emerging talent to bring arts and humanities programs to a more diverse public is a potential that should not be ignored.

As part of its budget presentation the Endowment for the Humanities proposed a new distribution formula for State programs as the first step toward achieving more equitable support. The proposed distribution for fiscal year 1979, however, may impose unacceptable reductions on some States. The Committee directs therefore that no current State allocation shall be reduced more than 15 percent in fiscal year 1979 as a result of any change in the NEH distribution formula.

Matching Grants

Appropriation, 1978	$50,500,000
Estimate, 1979	72,000,000
House allowance	74,000,000
Committee recommendation	74,000,000

The Committee recommends an appropriation of $74,000,000, the same as the House allowance and an increase of $2,000,000 over the budget estimate. The recommended level will provide $57,000,000 for the challenge grant program and $17,000,000 for matching grants as detailed in the following table:

	Committee recommendation
National Endowment for the Arts:	
Challenge grants	$30,000,000
Matching grants	*7,500,000*
Total, NEA	37,500,000
National Endowment for the Humanities:	
Challenge grants	27,000,000
Matching grants	*9,500,000*
Total, NEH	36,500,000

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

Appropriation, 1978	$233,000
Estimate, 1979	264,000
House allowance	263,000
Committee recommendation	263,000

The Committee recommends an appropriation of $263,000, the same as the House allowance and a reduction of $1,000 below the budget estimate. The reduction is applied to pay and personnel costs.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

Appropriation, 1978	$1,080,000
Estimate, 1979	1,553,000
House allowance	1,178,000
Committee recommendation	1,178,000

The Committee recommends an appropriation of $1,178,000, a reduction of $375,000 below the budget estimate and the same as the House allowance. The reduction consists of $6,000 for pay and personnel costs and $369,000 and 10 positions proposed for the new natural area program. Legislation creating a natural heritage program under the Heritage Conservation and Recreation Service of the Interior Department has not yet been forwarded to Congress. Until legislation is enacted and the program is ready to get underway, funding for the natural area program of the Council is not justified.

Although established as an advisory group, the council has attained independent status and continued to seek wider responsibilities. Some pending proposals would further expand its authority and eliminate "advisory" from its title. Elsewhere in this bill $7,047,000 is provided to the Heritage Conservation and Recreation Service to administer historic preservation programs and funds, and $4,800,000 is allocated to the National Trust for Historic Preservation for education and preservation services as well as acquisition and maintenance of historic properties. The Committee seriously questions the need for still another Federal agency to oversee historic preservation efforts. Accordingly, funds recommended for the council should be applied primarily to its advisory functions and not used to expand direct program responsibilities.

The Committee was disturbed to learn that the Council took more than 18 months to review and approve proposals forwarded by the Pennsylvania Avenue Development Corporation relating to the advancement of the Pennsylvania Avenue Plan. There was also considerable confusion over the working relationships between the two agencies. It is hoped that delays of this nature will not recur.

National Capital Planning Commission

SALARIES AND EXPENSES

Appropriation, 1978	$1,819,000
Estimate, 1979	1,939,000
House allowance	1,936,000
Committee recommendation	1,991,000

The Committee recommends an appropriation of $1,991,000, an increase of $52,000 over the budget estimate and $55,000 over the House allowance.

The National Capital Planning Commission is currently the central planning agency for the Federal Government in the National Capital area. A review of planning agencies having responsibilities in the Capital area with the goal of reorganization and improved coordination was proposed in the fiscal year 1978 budget submission to Congress. Proposed legislation was never forwarded, and this review is now a part of the administration's reorganization effort. Until a specific proposal is forwarded to Congress, the Committee cannot allow the Commission to suffer reductions in its base program which would effect its ability to deal with the issues of growth and development in the Washington area. The increase of $52,000 over the budget estimate will provide funding for four additional positions, maintaining the current personnel strength.

The Committee concurs in the House recommendation that the Commission prepare conflict of interest guidelines as expeditiously as possible.

Franklin Delano Roosevelt Memorial Commission

SALARIES AND EXPENSES

Appropriation, 1978	$25,000
Estimate, 1979	20,000
House allowance	20,000
Committee recommendation	20,000

The Committee recommends an appropriation of $20,000, the same as the budget estimate and the House allowance. Although it appears likely that unobligated funding will carry over into fiscal year 1979, no reductions are recommended since final approval of the plans for the memorial and efforts to begin design and construction will require all resources which will be available to the Commission in fiscal year 1979.

Joint Federal-State Land Use Planning Commission for Alaska

SALARIES AND EXPENSES

Appropriation, 1978	$712,000
Estimate, 1979	594,000
House allowance	594,000
Committee recommendation	356,000

The Committee recommends an appropriation of $356,000, reducing the the budget estimate and the House allowance by $238,000. Since the activities of the Commission related to the Native Claims

Settlement Act will transfer to other entities in March of 1979, the Committee feels that savings can be made in wind-down costs. The Commission will terminate on June 30, 1979.

Pennsylvania Avenue Development Corporation

SALARIES AND EXPENSES

Appropriation, 1978	$1,294,000
Estimate, 1979	1,530,000
House allowance	1,630,000
Committee recommendation	1,630,000

The Committee recommends an appropriation of $1,630,000, the same as the House allowance and an increase of $100,000 over the budget estimate. The increase over the budget estimate will allow the Corporation to hire an additional seven permanent positions to keep pace with rapidly expanding activities.

LAND ACQUISITION AND DEVELOPMENT

(Borrowing Authority)

Appropriation, 1978	$7,500,000
Estimate, 1979	13,400,000
House allowance	13,400,000
Committee recommendation	13,400,000

The Committee recommends an appropriation of $13,400,000, the same as the budget estimate and the House allowance, for acquisition of land and structures in advancement of the development plan. This level of funding will allow acquisition of property adjacent to the Willard Hotel during the fiscal year for development as a commercial site.

PUBLIC DEVELOPMENT

Appropriation, 1978	$12,354,000
Estimate, 1979	12,355,000
House allowance	12,355,000
Committee recommendation	12,355,000

The Committee recommends an appropriation of $12,355,000, the same as the budget estimate and the House allowance, for public development activities of the Corporation. This allowance includes $11,300,000 for public improvements, $705,000 for historic preservation, and $350,000 for relocation assistance.

TITLE III—GENERAL PROVISIONS

Testimony by the Department of the Interior indicated the wilderness review section in the BLM Organic Act is not fully applicable in Alaska because of the special nature of the Alaskan wilderness review process. The Committee feels that clarification of section 603 is warranted and recommends bill language preventing the application of that section in Alaska.

The implementation and enforcement of steel shot regulations by the Fish and Wildlife Service has been a continuing source of controversy. Even wildlife preservation groups cannot agree on the soundness of this policy. Studies into the causes and extent of lead poisoning among waterfowl are incomplete and many groups believe steel shot requirements are premature at best. Implementing these regulations would require a complete retooling of the shot shell industry as well as a costly enforcement program. The Committee believes that Federal funding should be suspended until the problem of lead poisoning has been clearly defined and corrective action, if needed, is fully coordinated among Federal, State and private interests. Accordingly, the Committee has included appropriate restrictions in the bill's general provisions.

Compliance With Paragraph 8, Rule XVI, Standing Rules of the Senate

The following amendments recommended by the committee, not made to carry out the provision of an existing law, are brought to the attention of the Senate in accordance with rule XVI:

Under "United States Fish and Wildlife Service: Resource Management" on page 10, line 16:

: *Provided further,* That $15,000,000 shall be available only upon enactment of S. 2899 or similar legislation reauthorizing section 15 of the Endangered Species Act of 1973.

Under "National Park Service: Operation of the National Park System" on page 13, line 15:

: *Provided,* That $90,000 shall be available for the National Park Service to assist the Town of Harpers Ferry for police force use.

Under "National Park Service: Construction" on page 13, line 22:

, of which $1,960,000 for Cowpens National Battlefield shall be available only upon enactment of authorizing legislation.

Under "Geological Survey: Exploration of National Petroleum Reserve in Alaska" on page 16, line 9:

: *Provided,* That the environmental restoration activities included within this appropriation shall encompass both the Gubic and Grandstand drilling sites which are adjacent to the Reserve.

Under "Bureau of Indian Affairs: Operation of Indian Programs" on page 20, line 11:

: *Provided further,* That none of these funds shall be expended as matching funds for programs funded under section 103(a)(1)(B)(iii) of the Vocational Education Act of 1963 as amended by the act of June 3, 1977 (Public Law 95–40).

Under "General Provisions, Department of the Interior" on page 30, line 22:

SEC. 109. Notwithstanding the provisions of the act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a), any adjustment or elimination by the Secretary of the indebtedness (including interest thereon) of the Hydaburg Cooperative Association to the United States shall be immediately effective.

Under "Department of Energy: Energy Conservation" on page 39, line 21:

: *Provided further,* That $100,100,000 for assistance to schools and hospitals and $7,300,000 for energy conservation in local government buildings shall be available only upon enactment of suitable authorizing legislation: *Provided further,* That $30,000,000 for energy impact assistance shall be available only upon enactment of H.R. 5146 or similar legislation.

BUDGETARY IMPACT OF H.R. 12932 [1]

(Dollars in millions)

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
I. Comparison of amounts in the bill with the Committee allocation to its subcommittees of amounts in the First Concurrent Resolution for 1979:				
SUBCOMMITTEE ON Interior and related agencies	13,300	11,495	11,600	10,525 [2]
II. Summary of functional category of 1979 budget amounts recommended in the bill:				
250 - General Science, Space, and Technology	----------	2	----------	2
270 - Energy	----------	5,088	----------	4,583
300 - Natural Resources and Environment	----------	4,112	----------	3,708
450 - Community and Regional Development	----------	667	----------	640 [2]
500 - Education, Training, Employment, and Social Services	----------	768	----------	724 [2]
550 - Health	----------	558	----------	576
750 - Administration of Justice	----------	---	----------	[4]
800 - General Government	----------	195	----------	187 [2]
850 - General Purpose Fiscal Assistance	----------	105	----------	105
III. Financial assistance to State and local governments for 1979 in the bill	----------	1,321	----------	621
IV. Projections of outlays associated with budget authority recommended in the bill:				
1979	----------	----------	----------	5,507 [3]
1980	----------	----------	----------	4,839
1981	----------	----------	----------	886
1982	----------	----------	----------	210
1983	----------	----------	----------	52

[1] Prepared by the Congressional Budget Office pursuant to sec. 308a, Public Law 93-344.

[2] Includes outlays from prior year budget authority.

[3] Excludes outlays from prior year budget authority.

[4] Less than $500,000.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1978 AND THE BUDGET ESTIMATES FOR 1979

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are *not* included in the accompanying bill]

Item	1978 appropriation [1]	Budget estimate	Increase (+) or decrease (—)
DEPARTMENT OF THE INTERIOR—INDEFINITE [2]			
Payments to State and local governments:			
Payments to States (proceeds of sales)	$551,000	$579,000	+$28,000
Payments to States from grazing receipts, public lands	3,037,000	3,608,000	+571,000
Coos Bay Wagon Road grant lands, payments to Coos Bay and Douglas Counties, Oreg., in lieu of taxes	1,900,000	2,500,000	$600,000
Oregon and California grant lands, payment to counties	106,045,000	113,000,000	+6,955,000
Mineral leasing, payment to States	173,926,000	202,043,000	+28,117,000
Payments to counties, national grasslands, Bureau of Land Management	395,000	444,000	+49,000
Payment to counties under national wildlife refuge fund	3,400,000	3,100,000	—300,000
Educational expenses, children of employees, Yellowstone National Park	475,000	410,000	—65,000
Payments to State of Wyoming, in lieu of taxes on lands in Grand Teton National Park, National Park Service	25,000	25,000	.....
Claim and treaty obligations, Bureau of Indian Affairs	200,000	200,000	.....
Internal Revenue collections for Virgin Islands, Territorial Affairs	20,000,000	20,000,000	.....
Total, payments to State and local governments	309,954,000	345,909,000	+35,955,000
Receipts applied to operations:			
Leasing of grazing lands	2,000	2,000	.....
Expenses, road maintenance deposits	2,500,000	2,500,000	.....
Migratory bird conservation fund	12,000,000	[3] 12,000,000	.....
Expenses, incident to sale of refuge products	1,100,000	1,100,000	.....
Proceeds from sales, water resources development projects	55,000	55,000	.....

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1978 AND THE BUDGET ESTIMATES FOR 1979—Continued

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS—Continued

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are *not* included in the accompanying bill]

Item	1978 appropriation [1]	Budget estimate	Increase (+) or decrease (−)
Commerative activities fund	$500,000		−$500,000
Operations and maintenance revenue, Indian irrigation systems	9,000,000	$9,000,000	
Power revenues, Indian irrigation projects	6,430,000	8,000,000	+1,570,000
Total, receipts applied to operations	31,587,000	32,657,000	+1,070,000
Mixed receipts:			
Federal aid in fish restoration management:			
Payments to States	24,331,684	26,500,000	+2,168,316
Applied to operations	2,000,000	2,100,000	+100,000
Federal aid in wildlife restoration:			
Payments to States	62,389,316	77,900,000	+15,510,684
Applied to operations	5,400,000	5,800,000	+400,000
Total, mixed receipts	94,121,000	112,300,000	+18,179,000
Contract authority:			
Land and water conservation, Heritage Conservation and Recreation Service	30,000,000	30,000,000	
Helium Fund, Bureau of Mines		[4] 47,500,000	
Total, Department of the Interior	465,662,000	520,866,000	+55,204,000
DEPARTMENT OF AGRICULTURE—FOREST SERVICE			
Payments to States and local governments (indefinite):			
Payments to States, national forest fund (25 percent fund)	224,098,352	239,727,000	+15,628,648
Payment to Minnesota (Cook, Lake, and St. Louis Counties)	259,038	259,038	
Payments to counties, national grasslands	996,075	1,258,003	+261,928
Payments to school funds, Arizona and New Mexico	219,320	308,216	+88,896
Total, payments to States and local governments	225,572,785	241,552,257	+15,979,472

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1978 AND THE BUDGET ESTIMATES FOR 1979—Continued

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS—Continued

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are *not* included in the accompanying bill]

Item	1978 appropriation [1]	Budget estimate	Increase (+) or decrease (—)
Receipts applied to operations:			
Expenses, brush disposal (indefinite)	$34,290,000	$36,902,000	+$2,612,000
Roads and trails for States (10 percent fund) (indefinite)	66,011,953	72,537,000	+6,525,047
Licensee programs (Smokey Bear-Woodsy Owl) (indefinite)	310,000	165,000	—145,000
Restoration of forest lands and improvements (indefinite)	50,000	50,000	.....
Timber purchaser roads constructed by Forest Service (indefinite)	15,000,000	15,000,000	.....
Timber salvage sales	.....	1,556,000	+1,556,000
Total, receipts applied to operations	115,661,953	126,210,000	+10,548,047
Total, Department of Agriculture-Forest Service	341,234,738	367,762,257	+26,527,519
Total, new budget (obligational) authority, Federal Funds	806,896,738	888,628,257	+81,731,519

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—TRUST FUNDS

Item	1978 appropriation [1]	Budget estimate	Increase (+) or decrease (—)
DEPARTMENT OF THE INTERIOR—INDEFINITE [2]			
Land resources management	$599,000	$599,000	.....
Trustee funds, Alaska townsites, Bureau of Land Management	1,000	1,000	.....
Contributed funds, Fish and Wildlife Service	2,500,000	2,800,000	+$300,000
Donations, National Park Service	2,877,000	2,077,000	—800,000
Birthplace of Abraham Lincoln, preservation of, National Park Service	3,000	3,000	.....
Jefferson National expansion Memorial contributions	120,000	120,000	.....
Contributed funds, Bureau of Mines	800,000	800,000	.....
Indian moneys, proceeds of labor, agencies, schools, etc	5,200,000	5,400,000	+200,000
Funds contributed for Indian projects	399,000	399,000	.....
Bequest of George C. Edgeter, relief of indigent Indians	2,000	2,000	.....

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1978 AND THE BUDGET ESTIMATES FOR 1979—Continued

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—TRUST FUNDS—Continued

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are *not* included in the accompanying bill]

Item	1978 appropriation [1]	Budget estimate	Increase (+) or decrease (—)
Miscellaneous trust funds of Indian tribes [5]	328,399,000	319,699,000	—8,700,000
Total, Department of the Interior	340,900,000	331,900,000	—9,000,000
DEPARTMENT OF AGRICULTURE—FOREST SERVICE			
Cooperative work (indefinite)	94,500,000	105,002,000	+10,502,000
OTHER AGENCIES—INDEFINITE			
Contributed funds, Energy Research and Development Administration	20,000	20,000	
National Foundation on the Arts and the Humanities: Gifts and donations	16,000,000	16,000,000	
Smithsonian Institution: Canal Zone biological area fund	70,000	70,000	
Joint Federal-State Land Use Planning Commission for Alaska: Cooperative funds	586,000	431,000	—155,000
Contributions, Indian Health Facilities	1,250,000	1,250,000	
Total, other agencies	17,926,000	17,771,000	—155,000
Total, permanent new budget (obligational) authority, trust funds	453,326,000	454,673,000	+1,347,000

[1] Some amounts are estimated and therefore subject to change.
[2] Exclusive of Bureau of Reclamation (which will be considered in connection with the Public Works appropriation bill).
[3] Excludes $11,000,000 estimated revenue dependent upon proposed legislation.
[4] Proposed for rescission in the accompanying bill.
[5] Annual appropriation language required.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN

[Amounts

Item	1978 Appropriation	Budget estimate
TITLE I - DEPARTMENT OF THE INTERIOR		
LAND AND WATER RESOURCES		
Bureau of Land Management		
Management of lands and resources	246,938,000	275,368,000
Acquisition, construction, and maintenance	18,707,000	17,683,000
Public lands development roads and trails (appropriation to liquidate contract authority)	(1,924,000)	---
Payments in lieu of taxes	100,000,000	105,000,000
Oregon and California grant lands (indefinite, appropriation of receipts)	56,500,000	58,250,000
Range improvements (indefinite, appropriation of receipts)	9,172,000	10,900,000
Recreation development and operation of recreation facilities (indefinite, special fund)	300,000	300,000
Service charges, deposits, and forfeitures (indefinite, special fund)	11,531,000	20,523,000
Working capital fund	2,000,000	---
Miscellaneous trust funds (indefinite)	100,000	100,000
Total, Bureau of Land Management	445,248,000	488,124,000
Office of Water Research and Technology		
Salaries and expenses	25,307,000	27,154,000
Total, Land and Water Resources	470,555,000	515,278,000
FISH AND WILDLIFE AND PARKS		
Heritage Conservation and Recreation Service		
Salaries and expenses	17,194,000	20,978,000
Land and Water Conservation Fund (indefinite)	600,000,000	725,000,000
Historic preservation fund	45,000,000	45,000,000
Total, Heritage Conservation and Recreation Service	662,194,000	790,978,000
United States Fish and Wildlife Service		
Resource management	169,279,000	191,937,000
Construction and anadromous fish	68,660,000	89,943,000
Migratory bird conservation account (definite, repayable advance)	10,000,000	10,000,000
Development and operation of recreation facilities (indefinite, special fund)	150,000	150,000
Total, United States Fish and Wildlife Service	248,089,000	292,030,000
National Park Service		
Operation of the national park system	323,152,000	363,714,000
Construction	161,442,000	121,328,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES THE BILL FOR FISCAL YEAR 1979

[in dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
295,315,000	274,991,000	+28,053,000	−377,000	−20,324,000
19,758,000	18,683,000	−24,000	+1,000,000	−1,075,000
---	---	(−1,924,000)	---	---
105,000,000	105,000,000	+5,000,000	---	---
58,250,000	58,250,000	+1,750,000	---	---
10,900,000	10,900,000	+1,728,000	---	---
300,000	300,000	---	---	---
20,523,000	20,523,000	+8,992,000	---	---
---	---	−2,000,000	---	---
100,000	100,000	---	---	---
510,146,000	488,747,000	+43,499,000	+623,000	−21,399,000
31,057,000	26,842,000	+1,535,000	−312,000	−4,215,000
541,203,000	515,589,000	+45,034,000	+311,000	−25,614,000
17,874,000	14,874,000	−2,320,000	−6,104,000	−3,000,000
645,841,000	645,194,000	+45,194,000	−79,806,000	−647,000
60,000,000	100,000,000	+55,000,000	+55,000,000	+40,000,000
723,715,000	760,068,000	+97,874,000	−30,910,000	+36,353,000
196,695,000	194,508,000	+25,229,000	+2,571,000	−2,187,000
96,153,000	96,479,000	+27,819,000	+6,536,000	+326,000
10,000,000	10,000,000	---	---	---
150,000	150,000	---	---	---
302,998,000	301,137,000	+53,048,000	+9,107,000	−1,861,000
382,317,000	367,631,000	+44,479,000	+3,917,000	−14,686,000
111,775,000	130,391,000	−31,051,000	+9,063,000	+18,616,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

[Amounts

Item	1978 Appropriation	Budget estimate
Road construction (appropriation to liquidate contract authority)	(30,198,271)	---
Planning, development, and operation of recreation facilities (indefinite, special fund)	14,000,000	15,478,000
John F. Kennedy Center for the Performing Arts	3,750,000	4,066,000
Total, National Park Service	502,344,000	504,586,000
Total, Fish and Wildlife and Parks	1,412,627,000	1,587,594,000
ENERGY AND MINERALS		
Geological Survey		
Surveys, investigations, and research	363,547,000	398,363,000
Exploration of national petroleum reserve in Alaska	209,541,000	185,548,000
Total, Geological Survey	573,088,000	583,911,000
Bureau of Mines		
Mines and minerals	135,270,000	121,329,000
Helium fund (permanent authority)	---	(47,500,000)
Total, Bureau of Mines	135,270,000	121,329,000
Office of Surface Mining Reclamation and Enforcement		
Regulation and technology	30,880,000	43,661,100
Abandoned mine reclamation fund (definite, trust fund)	36,647,000	70,861,000
Total, Office of Surface Mining Reclamation and Enforcement	67,527,000	114,522,000
Total, Energy and Minerals	775,885,000	819,762,000
INDIAN AFFAIRS		
Bureau of Indian Affairs		
Operation of Indian Programs	685,555,000	761,256,000
Construction	66,319,000	86,815,000
Road construction	75,335,000	71,410,000
Road construction (appropriation to liquidate contract authority)	(22,912,000)	---
Alaska native fund	30,000,000	30,000,000
Trust funds (definite)	3,000,000	3,000,000
Trust funds (indefinite)	23,000,000	21,000,000
Total, Bureau of Indian Affairs	883,209,000	973,481,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

in dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
---	---	(-30,198,271)	---	---
15,478,000	15,478,000	+1,478,000	---	---
4,055,000	4,055,000	+305,000	-11,000	---
513,625,000	517,555,000	+15,211,000	+12,969,000	+3,930,000
1,540,338,000	1,578,760,000	+166,133,000	-8,834,000	+38,422,000
419,689,000	395,127,000	+31,580,000	-3,236,000	-24,562,000
216,048,000	251,998,000	+42,457,000	+66,450,000	+35,950,000
635,737,000	647,125,000	+74,037,000	+63,214,000	+11,388,000
132,667,000	118,058,000	-17,212,000	-3,271,000	-14,609,000
---	(-47,500,000)	(-47,500,000)	(-95,000,000)	(-47,500,000)
132,667,000	118,058,000	-17,212,000	-3,271,000	-14,609,000
39,344,000	48,944,000	+18,064,000	+5,283,000	+9,600,000
77,851,000	78,451,000	+41,804,000	+7,590,000	+600,000
117,195,000	127,395,000	+59,868,000	+12,873,000	+10,200,000
885,599,000	892,578,000	+116,693,000	+72,816,000	+6,979,000
791,092,000	755,087,000	+69,532,000	-6,169,000	-36,005,000
116,265,000	117,254,000	+50,935,000	+30,439,000	+989,000
74,010,000	76,753,000	+1,418,000	+5,343,000	+2,743,000
---	---	(-22,912,000)	---	---
30,000,000	30,000,000	---	---	---
3,000,000	3,000,000	---	---	---
21,000,000	21,000,000	-2,000,000	---	---
1,035,367,000	1,003,094,000	+119,885,000	+29,613,000	-32,273,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

[Amounts

Item	1978 Appropriation	Budget estimate
TERRITORIAL AFFAIRS		
Office of Territorial Affairs		
Administration of territories	37,470,000	49,436,000
Permanent appropriation (special fund)	(336,000)	---
Transferred from other accounts (special fund)	(938,000)	---
Trust Territory of the Pacific Islands	96,483,000	106,920,000
Micronesian Claims Fund	---	---
Total, Office of Territorial Affairs	133,953,000	156,356,000
SECRETARIAL OFFICES		
Office of the Solicitor		
Salaries and expenses	14,409,000	14,895,000
Office of the Secretary		
Departmental Management	34,993,000	40,607,000
Salaries and expenses	(21,454,000)	(24,597,000)
Departmental operations	(13,539,000)	(16,010,000)
Salaries and expenses (special foreign currency program)	1,000,000	1,000,000
Total, Office of the Secretary	35,993,000	41,607,000
Total, Secretarial Offices	50,402,000	56,502,000
Total, title I, new budget (obligational) authority, Department of the Interior	3,726,631,000	4,108,973,000
Consisting of:		
Appropriations	3,726,631,000	4,108,973,000
Definite appropriations	3,011,878,000	3,257,272,000
Indefinite appropriations	714,753,000	851,701,000
Memoranda:		
Appropriations to liquidate contract authority	(55,034,271)	---
Title I, new budget (obligational) authority and appropriations to liquidate contract authority	3,781,665,271	4,108,973,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

[In dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
53,523,000	49,423,000	+11,953,000	−13,000	−4,100,000
---	---	(−336,000)	---	---
---	---	(−938,000)	---	---
115,578,000	106,898,000	+10,415,000	−22,000	−8,680,000
12,600,000	---	---	---	−12,600,000
181,701,000	156,321,000	+22,368,000	−35,000	−25,380,000
14,585,000	14,394,000	−15,000	−501,000	−191,000
42,391,000	41,545,000	+6,552,000	+938,000	−846,000
(26,381,000)	(26,195,000)	(+4,741,000)	(+1,598,000)	(−186,000)
(16,010,000)	(15,350,000)	(+1,811,000)	(−660,000)	(−660,000)
1,000,000	1,000,000	---	---	---
43,391,000	42,545,000	+6,552,000	+938,000	−846,000
57,976,000	56,939,000	+6,537,000	+437,000	−1,037,000
4,242,184,000	4,203,281,000	+476,650,000	+94,308,000	−38,903,000
4,242,184,000	4,203,281,000	+476,650,000	+94,308,000	−38,903,000
3,469,642,000	3,431,386,000	+419,508,000	+174,114,000	−38,256,000
772,542,000	771,895,000	+57,142,000	−79,806,000	−647,000
---	---	(−55,034,271)	---	---
4,242,184,000	4,203,281,000	+421,615,729	+94,308,000	−38,903,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

[Amounts

Item	1978 Appropriation	Budget estimate
TITLE II - RELATED AGENCIES		
DEPARTMENT OF AGRICULTURE		
Forest Service		
Forest protection and utilization:		
Forest land management	535,754,000	689,624,000
Forest research	101,488,000	102,152,000
State and private forestry cooperation	53,059,000	41,755,000
Total, Forest protection and utilization	690,301,000	833,531,000
Construction and land acquisition	40,630,000	19,545,000
Youth conservation corps	60,000,000	60,000,000
Forest roads	212,115,000	243,466,000
Forest roads and trails	175,833,000	173,922,000
Forest roads and trails (appropriation to liquidate contract authority)	(78,781,000)	---
Timber Salvage Sales	---	---
Acquisition of lands for national forests:		
Special acts (special fund, indefinite)	165,000	160,000
Acquisition of lands to complete land exchanges (special fund, indefinite)	38,000	242,000
Rangeland improvements (special fund, indefinite)	5,200,000	6,374,000
Assistance to States for tree improvement	1,387,000	1,409,000
Construction and operation of recreation facilities (indefinite, special fund)	4,084,000	3,459,000
Rights of way (indefinite)	---	100,000
Total, Forest Service	1,189,753,000	1,342,208,000
DEPARTMENT OF ENERGY		
Fossil energy research and development	619,950,000	637,451,000
Fossil energy construction	72,800,000	50,329,000
Energy production, demonstration, and distribution	186,847,000	254,692,000
Energy conservation	594,024,000	927,731,000
Economic Regulatory Administration	84,240,000	98,933,000
Strategic petroleum reserve	3,179,889,000	4,250,464,000
Energy Information Administration	48,062,000	63,405,000
Total, Department of Energy	4,785,812,000	6,283,005,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE		
Health Services Administration		
Indian health services	428,891,000	472,852,000
Indian health facilities	71,257,000	69,955,000
Total, Indian health	500,148,000	542,807,000
Office of Education		
Indian education	59,660,000	75,735,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

[In dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
626,720,000	672,128,000	+136,374,000	−17,496,000	+45,408,000
110,718,000	104,002,000	+2,514,000	+1,850,000	−6,716,000
57,676,000	48,260,000	−4,799,000	+6,505,000	−9,416,000
795,114,000	824,390,000	+134,089,000	−9,141,000	+29,276,000
43,550,000	24,118,000	−16,512,000	+4,573,000	−19,432,000
60,000,000	60,000,000	---	---	---
243,466,000	243,466,000	+31,351,000	---	---
224,275,000	191,131,000	+15,298,000	+17,209,000	−33,144,000
---	---	(−78,781,000)	---	---
3,000,000	3,000,000	+3,000,000	+3,000,000	---
415,000	160,000	−5,000	---	−255,000
239,000	239,000	+201,000	−3,000	---
5,400,000	5,400,000	+200,000	−974,000	---
1,508,000	1,508,000	+121,000	+99,000	---
3,459,000	3,459,000	−625,000	---	---
100,000	---	---	−100,000	−100,000
1,380,526,000	1,356,871,000	+167,118,000	+14,663,000	−23,655,000
614,704,000	589,753,000	−30,197,000	−47,698,000	−24,951,000
27,139,000	163,919,000	+91,119,000	+113,590,000	+136,780,000
182,881,000	167,181,000	−19,666,000	−87,511,000	−15,700,000
897,001,000	754,031,000	+160,007,000	−173,700,000	−142,970,000
94,733,000	94,733,000	+10,493,000	−4,200,000	---
4,084,624,000	3,006,854,000	−173,035,000	−1,243,610,000	−1,077,770,000
59,286,000	59,286,000	+11,224,000	−4,119,000	---
5,960,368,000	4,835,757,000	+49,945,000	−1,447,248,000	−1,124,611,000
490,048,000	481,127,000	+52,236,000	+8,275,000	−8,921,000
70,555,000	76,960,000	+5,703,000	+7,005,000	+6,405,000
560,603,000	558,087,000	+57,939,000	+15,280,000	−2,516,000
73,735,000	71,735,000	+12,075,000	−4,000,000	−2,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

[Amounts

Item	1978 Appropriation	Budget estimate
Office of the Assistant Secretary for Education		
Institute of Museum Services	4,000,000	7,752,000
Total, Department of Health, Education, and Welfare	563,808,000	626,294,000
INDIAN CLAIMS COMMISSION		
Salaries and expenses	1,500,000	---
NAVAJO AND HOPI INDIAN RELOCATION COMMISSION		
Salaries and expenses	2,050,000	13,129,000
SMITHSONIAN INSTITUTION		
Salaries and expenses	88,238,000	96,307,000
Museum programs and related research (special foreign currency program)	4,000,000	3,700,000
Science information exchange	1,777,000	2,218,000
Construction and improvements, National Zoological Park	2,500,000	3,900,000
Restoration and renovation of buildings	2,425,000	3,100,000
Construction	325,000	575,000
Subtotal	99,265,000	109,800,000
Salaries and expenses, National Gallery of Art	14,509,000	19,305,000
Salaries and expenses, Woodrow Wilson International Center for Scholars	1,256,000	1,317,000
Total, Smithsonian Institution	115,030,000	130,422,000
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES		
National Endowment for the Arts		
Salaries and expenses	89,100,000	102,160,000
Administrative expenses	8,900,000	10,000,000
Matching grants	25,500,000	37,500,000
Total, National Endowment for the Arts	123,500,000	149,660,000
National Endowment for the Humanities		
Salaries and expenses	87,800,000	100,300,000
Administrative expenses	8,200,000	10,800,000
Matching grants	25,000,000	34,500,000
Total, National Endowment for the Humanities	121,000,000	145,600,000
Total, National Foundation on the Arts and the Humanities	244,500,000	295,260,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

[In dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
7,752,000	8,000,000	+4,000,000	+248,000	+248,000
642,090,000	637,822,000	+74,014,000	+11,528,000	−4,268,000
---	---	−1,500,000	---	---
8,752,000	8,692,000	+6,642,000	−4,437,000	−60,000
96,841,000	95,540,000	+7,302,000	−767,000	−1,301,000
3,700,000	3,700,000	−300,000	---	---
2,000,000	2,000,000	+223,000	−218,000	---
3,900,000	3,900,000	+1,400,000	---	---
2,100,000	1,950,000	−475,000	−1,150,000	−150,000
575,000	575,000	+250,000	---	---
109,116,000	107,665,000	+8,400,000	−2,135,000	−1,451,000
19,305,000	18,455,000	+3,946,000	−850,000	−850,000
1,567,000	1,567,000	+311,000	+250,000	---
129,988,000	127,687,000	+12,657,000	−2,735,000	−2,301,000
102,160,000	102,160,000	+13,060,000	---	---
10,000,000	9,550,000	+650,000	−450,000	−450,000
37,500,000	37,500,000	+12,000,000	---	---
149,660,000	149,210,000	+25,710,000	−450,000	−450,000
98,300,000	98,300,000	+10,500,000	−2,000,000	---
10,800,000	9,450,000	+1,250,000	−1,350,000	−1,350,000
36,500,000	36,500,000	+11,500,000	+2,000,000	---
145,600,000	144,250,000	+23,250,000	−1,350,000	−1,350,000
295,260,000	293,460,000	+48,960,000	−1,800,000	−1,800,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

[Amounts

Item	1978 Appropriation	Budget estimate
COMMISSION OF FINE ARTS		
Salaries and expenses	233,000	264,000
ADVISORY COUNCIL ON HISTORIC PRESERVATION		
Salaries and expenses	1,080,000	1,533,000
NATIONAL CAPITAL PLANNING COMMISSION		
Salaries and expenses	1,819,000	1,939,000
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION		
Salaries and expenses	25,000	20,000
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA		
Salaries and expenses	712,000	594,000
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION		
Salaries and expenses	1,294,000	1,530,000
Land acquisition and development (borrowing authority)	7,500,000	13,400,000
Public development	12,354,000	12,355,000
Total, Pennsylvania Avenue Development Corporation	21,148,000	27,285,000
FUNDS APPROPRIATED TO THE PRESIDENT		
Petroleum Reserves (indefinite, special fund) (by transfer)	(561,200,000)	---
Total, title II, new budget (obligational) authority, related agencies	6,927,470,000	8,721,973,000
Consisting of:		
Appropriations	6,919,970,000	8,708,573,000
Definite appropriations	6,910,483,000	8,698,238,000
Indefinite appropriations	9,487,000	10,335,000
Borrowing authority	7,500,000	13,400,000
Memoranda:		
Appropriations to liquidate contract authority	(78,781,000)	---
Title II, new budget (obligational) authority and appropriations to liquidate contract authority	7,006,251,000	8,721,973,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

[In dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
263,000	263,000	+30,000	−1,000	---
1,178,000	1,178,000	+98,000	−375,000	---
1,936,000	1,991,000	+172,000	+52,000	+55,000
20,000	20,000	−5,000	---	---
594,000	356,000	−356,000	−238,000	−238,000
1,630,000	1,630,000	+336,000	+100,000	---
13,400,000	13,400,000	+5,900,000	---	---
12,355,000	12,355,000	+1,000	---	---
27,385,000	27,385,000	+6,237,000	+100,000	---
---	---	(−561,200,000)	---	---
8,448,360,000	7,291,482,000	+364,012,000	−1,430,491,000	−1,156,878,000
8,434,960,000	7,278,082,000	+358,112,000	−1,430,491,000	−1,156,878,000
8,425,347,000	7,268,824,000	+358,341,000	−1,429,414,000	−1,156,523,000
9,613,000	9,258,000	−229,000	−1,077,000	−355,000
13,400,000	13,400,000	+5,900,000	---	---
---	---	(−78,781,000)	---	---
8,448,360,000	7,291,482,000	+285,231,000	−1,430,491,000	−1,156,878,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

(Amounts

Item	1978 Appropriation	Budget estimate
RECAPITULATION		
Total, new budget (obligational) authority, all titles	10,654,101,000	12,830,946,000
Consisting of:		
Appropriations	10,646,601,000	12,817,546,000
Definite appropriations	9,922,361,000	11,955,510,000
Indefinite appropriations	724,240,000	862,036,000
Borrowing authority	7,500,000	13,400,000
Memoranda:		
Appropriations to liquidate contract authority	(133,815,271)	---
Grand total, new budget (obligational) authority and appropriations to liquidate contract authority	10,787,916,271	12,830,946,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

in dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
12,690,544,000	11,494,763,000	+840,662,000	−1,336,183,000	−1,195,781,000
12,677,144,000	11,481,363,000	+834,762,000	−1,336,183,000	−1,195,781,000
11,894,989,000	10,700,210,000	+777,849,000	−1,255,300,000	−1,194,779,000
782,155,000	781,153,000	+56,913,000	−80,883,000	−1,002,000
13,400,000	13,400,000	+5,900,000	---	---
---	---	(−133,815,271)	---	---
12,690,544,000	11,494,763,000	+706,846,729	−1,336,183,000	−1,195,781,000

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Calendar No. 987

95TH CONGRESS, 2d Session | SENATE | REPORT No. 95-1064

WAIVER OF SECTION 303(a) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 2600

AUGUST 3 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MUSKIE, from the Committee on the Budget, submitted the following

REPORT

[To accompany S. Res. 517]

The Committee on the Budget, to which was referred the resolution, Senate Resolution 517, waiving section 303(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to consideration of S. 2600, a bill to amend and extend for 5 years the Vocational Rehabilitation Act and the Developmental Disabilities Act, and to create a new comprehensive services program for the severely handicapped, reports favorably thereon and recommends that the resolution be adopted, and reports two additional recommendations with respect to the bill.

PURPOSE OF THE RESOLUTION

Section 303(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution or any amendment thereto providing new budget authority, new spending authority, or changes in revenues or public debt for a fiscal year until the first concurrent resolution on the budget for such fiscal year has been adopted. Since S. 2600 would provide new entitlement authority for future years (fiscal year 1980-fiscal year 1983) for which no budget resolution is in place, a waiver of section 303(a) of the Budget Act is necessary before the bill can be taken up on the Senate floor. In reporting favorably on the resolution waiving application of section 303(a) to S. 2600, the Budget Committee is recommending that the Senate proceed to consideration of the bill.

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 303(a) of the Budget Act. One of the major purposes of the Congressional Budget Act was to bring the Federal budget under better control. Through the adoption each year of the first and second concurrent resolutions on the budget, Congress sets fiscal policy and national priorities for the fiscal year.

If legislation affecting spending or revenues for a future fiscal year is considered prior to the adoption of the first concurrent resolution on the budget for that year, to that extent Congress loses control of the spending and priority decisions for that year prior to adoption of a congressional budget for that year. However, the Budget Act recognized that in some situations it may be appropriate to consider such legislation before the adoption of the first concurrent resolution.

BUDGET RECOMMENDATIONS

The Budget Committee has concluded that it is appropriate to waive section 303(a) in the case of S. 2600. As reported, the cost of the vocational rehabilitation entitlement program is consistent with allocations for entitlement programs in the Human Resources Committee's section 302(b) allocation report and is consistent with the assumptions in the First Budget Resolution for fiscal year 1979, and the 5-year function and mission totals set forth in the Senate report accompanying that Resolution.

In adopting this recommendation as to the features of the bill which are subject to section 303 of the Budget Act, the Budget Committee also voted to recommend the Senate amend the bill to unify two otherwise duplicative and expensive major programs provided by the bill and to reduce from 5 years to 3 the authorization the bill provides.

The committee recommends that the authorization period for the Vocational Rehabilitation legislation be shortened from 5 to 3 years. The Budget Committee is concerned about long term commitments involving increasing expenditures in entitlement programs. Such programs should be reviewed more frequently in light of changing needs and conditions.

Overlap exists among provisions of the bill which would result in duplicative and therefore excessive spending. The committee recommends that this duplication be eliminated to the greatest extent possible. The primary source of this potential duplication is that the Developmental Disabilities program is extended for another 5 years, rather than being integrated into the proposed new comprehensive services program for the severely handicapped. With the exception of a single minor provision, the comprehensive services program subsumes all the purposes in the reauthorization for Developmental Disabilities. The result will be costly duplicative administrative structures at the Federal level and duplicative delivery systems at the State level, causing unnecessary inconvenience for the severely handicapped clientele who are forced to seek services from a multiplicity of public agencies. This duplication will also divert Federal dollars to bureaucratic costs rather than to other important purposes, including other priorities which would aid the handicapped.

The Budget Committee has a continuing concern about the pressure on Federal spending created by duplication and overlap in authorized spending. The committee firmly believes that the appropriate tool for trimming Federal spending is through thoughtful program evaluation in the authorization process rather than through meat-axe cuts in spending bills which indiscriminately penalize programs without regard to priority.

Under these circumstances, and in light of these recommendations, the committee believes that Senate consideration of S. 2600 is not so inconsistent with the congressional budget process as to be inappropriate and recommends that the resolution be adopted.

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Calendar No. 988

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1065

TUITION TAX RELIEF ACT OF 1978

AUGUST 4 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Appropriations, submitted the following

ADVERSE REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany H.R. 3946]

The Committee on Appropriations, to which was referred the bill (H.R. 3946) to suspend for a temporary period the rate of duty on wool not finer than 46s, pursuant to section 401(b)(2) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344), having considered the same, reports the bill without amendment and recommends that the bill do not pass.

REFERRAL TO THE APPROPRIATIONS COMMITTEE

The bill was referred to the Appropriations Committee, pursuant to the provisions of section 401(b)(2) of the Congressional Budget and Impoundment Control Act of 1974. As reported, the bill provides for refundable tax credits for elementary, secondary, and higher education the amounts of which would exceed the allocation of new spending authority for the Committee on Finance for fiscal year 1979 pursuant to the section 302(b) "crosswalk" procedure.

JURISDICTION OF THE APPROPRIATIONS COMMITTEE

In accordance with the Congressional Budget and Impoundment Control Act, the Committee's jurisdiction relates to the cost of the bill with respect to the new spending authority which exceeds the amounts made available to the Committee on Finance pursuant to

section 302(b). Section 401(b) states that, with respect to referrals of this nature:

> The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

Accordingly, the Committee considered that portion of the bill which brought about the referral to begin with: namely, the creation of new spending (entitlement) authority for the refundable tuition tax credits in fiscal year 1979.

Consideration and Cost Aspects of the Bill

The Tuition Tax Relief Act of 1978 (H.R. 3946) contains a refundable tax credit provision which is equivalent to a cash grant.

The Committee is greatly concerned that H.R. 3946 would establish a mechanism duplicating currently appropriated grants for educational assistance without any provisions making the new program subject to the Congressional budget process and annual oversight review and control of expenditures by the Congress.

The Committee also believes that tuition tax credits are not the most suitable means of assisting middle-income students to meet the costs of college or postsecondary vocational-technical training. Further, the adoption of tuition tax credits for elementary and secondary education would create an additional heavy burden upon the U.S. Treasury and would, for the first time, provide general Federal aid to private schools. Therefore, the Committee feels compelled to report the bill to the Senate with the recommendation that it not be adopted.

Postsecondary Education

The Committee is concerned that by 1983, this bill alone, as reported by the Finance Committee, would add at least $5.3 billion to the current fiscal year 1978 education appropriation of $10.1 billion.

The Committee on Human Resources has also reported the College Opportunity Act, S. 2539, which would authorize appropriations likely to cost an additional $1.4 billion a year for student assistance grants and loans.

Enactment of both additional student assistance appropriations and tax credits could add as much as $7 billion a year to Federal education expenditures, a 70-percent increase over 1978 levels. Addition of this much spending for student assistance would dramatically shift the balance among education programs.

The Committee believes that middle-income students can best be assisted with their postsecondary education through expansion of existing grant and loan programs in the Office of Education. These funds go directly to the students and are geared to each student's individual needs and the financial costs associated with the student's attendance in a postsecondary institution. The tuition tax credit would not directly benefit students and is not geared to the need of the student or the varying costs of postsecondary institutions.

Elementary-Secondary Education

There are unique features relating to elementary and secondary tuition tax credits legislation which raise serious questions that have not been adequately addressed in the Senate:

First, enactment of tax credits for elementary and secondary education would result in a dramatic shift in Federal education policy in favor of private-school students. Only those private school students most in need, such as handicapped, non-English-speaking, or disadvantaged now receive Federal assistance. In other words, public-school students with no special needs receive no direct Federal assistance. Tax credits would subsidize all students in private schools. Private schools that serve economically disadvantaged children, or other children with special needs, currently receive aid through title I of the Elementary and Secondary Education Act. Under this bill, however, all private schools would receive aid, whether or not they chose to serve students with special education needs whom the Federal Government has required the public schools to serve. By extending blanket assistance to all children in private schools, this amendment would turn on its head the timetested Federal policy of targeting aid to those who need it most.

Presently, the Federal Government supports private-school students at approximately $50 per student. Per capita support for public-school students is approximately $120 per student. Assuming full benefit of the tax credit proposal, the Federal Government would then be in the position of providing more than four times the support for each private school student than it currently does for each public school student.

Second, the ultimate cost of this legislation will be much higher than is generally recognized. Cost estimates do not consider the potential billions of dollars required to fund those students in new private academies established to take advantage of this legislation. Nor does it take into consideration possible moves by public schools to charge tuition.

Third, H.R. 3946 as reported by the Finance Committee raises serious legal questions under the Establishment Clause of the first amendment to the Constitution. The Supreme Court decision in the 1973 *Nyquist* case, prohibited tuition tax credits under a State statute, stating:

> Special tax benefits, however, cannot be squared with the principle of neutrality established by the decisions of this Court. To the contrary, insofar as such benefits render assistance to parents who send their children to sectarian schools, their purpose and inevitable effect are to aid and advance those religious institutions.

Given this relatively recent Supreme Court decision, the Committee believes this proposal holds out a false promise of tax relief.

Fourth, tuition tax credit would make it easier for a student to attend a segregated or minimally integrated school if the parents wished to avoid an integrated public school. Tuition tax credits would be an encouragement and reward to those who flee the public schools to attend private academies created largely in response to desegregation in public schools.

Even though H.R. 3946 limits the tax credit to expenses or tuition for attendance at tax-exempt institutions in order to prevent the credit from benefiting schools with racially discriminatory admission policies, there would be problems of monitoring tax forms and proving discrimination. The Internal Revenue Service should not be forced to assume an expanded role in handling discrimination investigations. Further, it makes no sense to give IRS the responsibility of enforcing civil rights when the Congress has previously delegated that responsibility to other agencies.

Although the foregoing sets forth the highlights of a number of problems and objections raised by H.R. 3946, it is not all inclusive or reflective of the individual views of all members of the Committee. Accordingly, the Committee does believe this measure creates more problems than it would solve and has reported the bill to the Senate with the recommendation that it not be adopted.

Cost Estimate

The following is a table prepared by the Congressional Budget Office estimating the costs of H.R. 3946:

[In millions of dollars]

	Fiscal year—					
	1978	1979	1980	1981	1982	1983
Reduction of tax liability for taxpayers	21	517	878	2,318	3,772	4,545
Payments in excess of tax liability for taxpayers	(1)	15	25	104	151	191
Payment to nontaxpayers	(1)	102	160	266	434	525
Total budgetary cost	21	634	1,063	2,688	4,357	5,262

[1] Less than $500,000.

Rollcall Votes in Committee

The Committee agreed to a motion to report H.R. 3946 adversely by a vote of 14 to 6.

ADDITIONAL VIEWS OF SENATOR HENRY BELLMON

At the time of the first concurrent resolution on the Budget, the Senate assumed enactment of a tuition tax credit for undergraduate, postsecondary and vocational education. The estimated cost of that credit in fiscal year 1979—$600 million—is approximately the cost projected for H.R. 3946. However, there are significant budget problems associated with H.R. 3946 in the years following fiscal year 1979. For example, the tax credit we assumed in the first resolution would have cost $1.9 billion per year by 1983, whereas the fiscal year 1983 cost of H.R. 3946 is estimated at $5.3 billion. I am still not convinced that the case for education tax credits for middle-income families is sufficiently strong to justify the commitment of even the amounts contemplated in the first budget resolution, in the face of ever-growing pressure to reduce taxes generally and to lower the Federal deficit. I am unalterably opposed to a commitment of the magnitude envisioned in H.R. 3946, which mortgages future options in favor of immediate political pressures.

I concur with the Committee in its reasons for recommending that H.R. 3946 not be adopted on its merits.

HENRY BELLMON.

ADDITIONAL VIEWS OF SENATOR THOMAS F. EAGLETON

It is my belief that the tuition tax credit for elementary and secondary education is unconstitutional under the *Nyquist* case. I will elaborate on my views in the Senate debate on this subject.

THOMAS F. EAGLETON.

ADDITIONAL VIEWS OF SENATOR PATRICK J. LEAHY

I join the Committee in its unfavorable report on the tuition tax credit bill, H.R. 3946. As this measure involves a refundable tax credit, the bill has been properly referred to the Senate Appropriations and Finance Committees for their consideration. I hope that in the future such measures will be referred to the Appropriations Committee as well on a routine basis.

While I remain interested in providing assistance to families trying to meet the rising costs of education, I do not believe that tuition tax credits are the proper course. Tax credits as applied to sectarian elementary and secondary education have been declared unconstitutional. The U.S. Supreme Court has, for over 30 years, rejected any tax plan whose effect would provide direct or indirect Federal financial assistance to sectarian education. I believe a Federal tuition tax credit plan, such as this, conflicts with the first amendment's establishment clause and feel the Court would reject it as unconstitutional. I further believe that the more proper and economically feasible method of education financial assistance is through the existing grants and loans programs.

PATRICK J. LEAHY.

ADDITIONAL VIEWS OF SENATOR JIM SASSER

The adoption of a scheme to provide tuition tax credits for attendance in private elementary and secondary schools will irrevocably alter longstanding governmental posture toward education in America. Such a scheme may also be in violation of the establishment clause of the U.S. Constitution. Further, it is unwise and undisciplined to commit billions of Federal dollars to a program, the total cost of which is unknown, which is not subject to control by the appropriations process.

However, it is my belief that a tax credit program related to colleges, universities, and other postsecondary educational institutions would not share the same shortcomings. My vote to report this bill unfavorably should not, therefore, be construed as an indication of my feeling toward tuition tax credits for postsecondary education.

JIM SASSER.

MINORITY VIEWS OF SENATOR RICHARD S. SCHWEIKER

I strongly disagree with the unfavorable recommendation of the Appropriations Committee on H.R. 3946, the Tuition Tax Relief Act. H.R. 3946 was referred to the Appropriations Committee under section 401(b) of the Congressional Budget Act of 1974 because the bill contained a refundable tax credit which was seen as an entitlement. The Committee report for section 401(b) of the Budget Act states that—

> The Appropriations Committee would not be authorized under this procedure to report amendments in any way dealing with the substance of the legislation, even if some substantive change would clearly be needed to meet the spending limitation on the program which the Appropriations Committee amendment provides.

Legislative history clearly indicates that the only authority the Appropriations Committee has over a bill such as H.R. 3946, is to amend or comment on the section in the bill pertaining to tax refundability or entitlements. The Committee refused to amend this portion, but decided to comment on other provisions of the bill, as well as its overall merit. As I read the Committee report for the Budget Act, the only area on which the Appropriations Committee can appropriately comment is the refundability issue.

As a longtime supporter of tax relief for those who pay tuition at elementary, secondary, and postsecondary institutions, I look forward to seeing this issue debated on the Senate floor. The Senate has passed college tuition tax credits on a number of occasions, so the only new issue which will be discussed is the elementary and secondary portion. I also wish to register at this time my strong opposition to allegations which have been made that support for tuition tax relief for nonpublic schools indicates a withdrawal of support for the public school. Nothing could be further from the truth, which can be clearly ascertained by a review of my voting record on appropriations for public education in this Committee as long as I have served on it, but particularly during consideration of the fiscal year 1979 Labor-HEW budget.

I also disagree vehemently with the contention raised during full Committee consideration of H.R. 3946, that support for tuition tax relief indicates support for racist or separatist institutions. There are provisions in H.R. 3946 which would guard against this; and this legislation has received widespread support from many minority groups. Our urban nonpublic schools are filled with minority students. For example, 78 percent of the students in Catholic grammar schools in Manhattan are minority students. It costs $462 to educate these children in the nonpublic schools, as opposed to $2,647 to educate a child in the New York public schools, and most private school students are 1 year ahead of their public school counterparts. From a budgetary standpoint, if all the children in nonpublic schools had to be educated

in the public schools, the additional cost to the taxpayer would be approximately $17 billion a year. Obviously, local school districts, particularly in urban areas, could never assume the burden if the nonpublic schools closed. The U.S. National Center for Educational Statistics projects that, by 1984, due to rising costs, enrollments in nonpublic elementary and secondary schools are expected to drop 50 percent, so there is a real concern here.

I urge my colleagues in the Senate to favorably consider tuition tax relief legislation at the earliest possible date.

RICHARD S. SCHWEIKER.

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NOTICE: In lieu of a star print, errata are printed to indicate corrections to the original report

Calendar No. 989

95TH CONGRESS, 2d Session } SENATE { REPORT No. 95-1066

TUITION TAX RELIEF ACT OF 1978

AUGUST 4 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MOYNIHAN, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 12050]

The Committee on Finance, to which was referred the bill (H.R. 12050) to provide a Federal income tax credit for tuition, having considered same, reports favorably with an amendment and recommends that the bill as amended do pass.

ERRATA

On page 10, after the third paragraph, insert the following paragraphs:

Relationship of credit to other educational assistance programs

The committee intends that the educational expenses credit provide individuals with additional educational assistance and not affect their eligibility for, nor the amount of the assistance to which they are entitled, under any other program. Therefore, the bill specifically provides that any reduction in tax liability enjoyed by any individual as a result of claiming a credit for educational expenses is not to be taken into account as income or receipts in determining the individual's eligibility (or any other individual's eligibility) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal educational assistance program or under any State or local educational assistance program which is financed in whole or in part with Federal funds.

Examination of books and records

The bill contains a provision to give assurance that there will be no unnecessary interference with the activities of a church or convention or association of churches where a school is operated, supervised or controlled in conjunction with it. As a result, the bill provides that the books and records of a school operated in conjunction with a church may be examined by the Internal Revenue Service only to the extent necessary to determine that the school is an eligible educational institution. In all other respects, the burden then is upon the taxpayer to prove that he is eligible for the tax credit. It is his responsibility, for example, to establish the amount paid and that this amount was paid for tuition, in the same manner as is provided under present law, in verifying charitable contribution deductions.

Judicial review

The committee believes that the provisions of this bill are valid legislation under the Constitution. The bill will benefit a broader class of beneficiaries than any legislation of this type on which the Supreme Court has ruled so far. However, in order to resolve expeditiously any questions which may arise concerning its constitutionality, the bill provides for the expeditious disposition of legal proceedings brought with respect to any provision of the credit or with respect to any other provision of the Internal Revenue Code which relates to the credit. Expeditious review will reduce the administrative problems and the costs which would arise inevitably for both taxpayers and the Internal Revenue Service if the validity of any provision of the credit is in doubt when it becomes effective, or if any provision is determined to be invalid after it has become effective.

The bill therefore provides that if any judicial proceeding is brought in a U.S. district court concerning the constitutional validity of any provision of the tuition tax credit, the district court shall immediately certify all questions involving the constitutionality of that provision to the United States Court of Appeals for the circuit involved. The Court of Appeals shall hear the matter sitting en banc.

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95TH CONGRESS
2d Session

SENATE

Calendar No. 989

REPORT
No. 95-1066

TUITION TAX RELIEF ACT OF 1978

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Mr. MOYNIHAN, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 12050]

The Committee on Finance, to which was referred the bill (H.R. 12050) to provide a Federal income tax credit for tuition, having considered same, reports favorably with an amendment and recommends that the bill as amended do pass.

House bill.—H.R. 12050, as it passed the House, would provide a Federal income tax credit for tuition for elementary, secondary and postsecondary education.

Committee bill.—The committee amendment strikes all after the enacting clause, and inserts in lieu thereof the committee's decisions with respect to Federal income tax credits for educational expenses. The amendment is shown in italic in the bill as reported.

I. SUMMARY

The bill provides a tax credit for certain educational expenses paid by an individual for himself, his spouse, or his dependents. The benefits provided by the bill will become effective in two stages. Beginning August 1, 1978, individuals will be entitled to claim a credit in an amount equal to 50 percent of tuition and fees, with a maximum credit of $250 per student for expenses in an undergraduate college or a postsecondary vocational school. On October 1, 1980, the credit will be expanded to cover tuition and fees for elementary and secondary schools (including vocational secondary schools) and for half-time undergraduate students. In addition, the maximum credit will be increased to $500 for postsecondary educational expenses on October 1, 1980.

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II. EXPLANATION OF THE BILL

Present law

Present law provides no tax credit, deduction, or other tax benefit for personal education expenses. However, there are a number of provisions in present law which provide indirect tax benefits to students, their families, or to other individuals and institutions involved in education.

In certain cases, taxpayers are entitled to a personal exemption for a dependent, which they otherwise could not claim, because the dependent is a student. Generally, a taxpayer may claim a $750 personal exemption deduction for each dependent who has less than $750 gross income for the taxable year. However, the gross income limitation does not apply if the dependent is the taxpayer's child and is under the age of 19 or is a student (sec. 151).

Individuals generally may exclude from income amounts received as scholarships and fellowships (sec. 117). The exclusion also covers incidental amounts received to cover expenses for travel, research, clerical help, and equipment when they are expended for these purposes. The exclusion for scholarships and fellowship grants is restricted to educational grants by relatively disinterested grantors who do not require any significant consideration (e.g., promises of future services) from the recipient. Similarly, the Internal Revenue Service regards tuition postponement to be a loan and therefore not includible as income to the student (Rev. Rul. 72–2, 1972–1 C.B. 19).

Educational expenses which qualify as trade or business expenses under section 162 may be deducted. Expenditures made by an individual for his own education generally are deductible if they are for education which (1) maintains or improves skills required by the individual's employment or other trade or business, or (2) meets the express requirements of the individual's employer or the requirements of applicable law or regulations imposed as a condition to the retention by the individual of an established employment relationship, status, or rate of compensation. These types of education are commonly called "job-related education."

Other provisions which benefit education in general and sometimes students in particular include the exclusion from income of gifts (sec. 102), which may comprise a large portion of a student's support, and the charitable contribution deduction for contributions to educational institutions (sec. 170). Several provisions, such as the exclusion of interest on State and municipal bonds (sec. 103) and the deduction for State and local taxes (sec. 164) indirectly assist publicly-supported educational institutions by easing the financial burden on State and local governments.

Reasons for change

The committee is concerned about the increase in costs of postsecondary education. Tuition costs for both public and private postsecondary institutions have increased rapidly in recent years and are expected to continue to increase.[1] The overall cost of a private college education rose 119 percent between 1964 and 1976. The cost of attending a public university increased by 99 percent during the same period. These escalating costs are making it increasingly difficult for many parents to provide their dependents with a college education. The committee believes that families who do not qualify for financial aid, or who receive small amounts of aid, and who cannot keep up with the increase in educational expenses need assistance to meet the increased cost of a college education. The committee also believes that the tax credit approach is preferable to an expanded system of need-based aid. A tax credit involves no significant administrative burden and has no impact on the personal privacy of taxpayers.

In addition to the rising costs of postsecondary education, the cost of nonpublic elementary and secondary education has increased substantially in recent years, and enrollment in nonpublic schools has dropped sharply, from 6.3 million private school students in 1965 to 5.3 million in 1976, a decrease of 16 percent, while public school enrollment has increased 5 percent.[2] At the same time, the cost of public schools is rising substantially, and taxes keep increasing to meet this cost. The committee believes that nonpublic school parents who must pay for the increased costs of both public and nonpublic schools, even though they relieve the public schools of the cost of educating their children, also should receive tax relief for their children's educational expenses. The committee also feels that nonpublic schools represent an intergral part of American society, reflecting the diversity of the country, and providing citizens with important opportunities to obtain the education they deem best suited to individual needs and family values. In providing a tuition credit which would be worth, on average, $170 per private elementary or secondary school student, the committee believes that it is helping families to obtain such education. By assisting citizens to select and pay for such education, the tax relief provided by this bill is intended to reinforce and sustain the Nation's historic pattern of diverse educational offerings in both the public and the nonpublic sectors.

More than 16 million students are potential beneficiaries of this legislation. At the present time there are approximately 11.3 million persons enrolled in tuition-charging postsecondary institutions and approximately 5 million more in tuition-charging elementary and secondary schools.[3] It is estimated that approximately 75 percent of the

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[1] According to a study by the Congressional Research Service tuition and fees in public and private postsecondary institutions increased more than 93 percent between 1967 and 1976, while the median income of families with college-age children rose 78.8 percent. Memorandum to Senator Moynihan, dated July 28, 1978, from John Karr, economic analyst.

[2] Source: "Projections of Education Statistics to 1985–86," table 4, National Center for Education Statistics (GPO, 1977).

[3] Source: "Projections of Education Statistics to 1985–86," National Center for Education Statistics (GPO, 1977).

benefit from this legislation will accrue to postsecondary students and their families, while about 25 percent will accrue to those in elementary and secondary schools.

Explanation of provisions

Statement of policy

The bill contains a statement of policy. This statement provides that it is to be the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. It states further that Federal legislation should recognize the heavy financial burden now borne by individuals and families who must pay tuition to obtain the education that best serves their needs and aspirations—whether at the primary, secondary, or postsecondary level—and should provide some relief. Such relief shall be available only to persons enrolled in bona fide educational institutions which fully comply with all applicable Federal and State laws and requirements, including civil rights provisions. The bill also states that the Congress finds that without such assistance the diversity and pluralism that constitute important strengths of the American education system will be diminished. The Congress finds that this assistance can appropriately be provided through the income tax structure with a minimum of complexity and governmental interference in the lives of individuals and families. In this policy statement, the Congress further finds that the provision of such assistance in this manner fully complies with all provisions of the Constitution; that it does not constitute excessive governmental entanglement with religion; that it is wholly secular in purpose and that such assistance will neither advance nor hinder religion. The primary purpose of this Act is to enhance equality of educational opportunity for all Americans at the schools and colleges of their choice.

General provisions

The bill provides a tax credit for certain educational expenses paid by an individual for himself, his spouse, or his dependents (as defined in sec. 152).[4]

The benefits provided by the bill take effect in two stages. Effective August 1, 1978, a credit will be allowed for 50 percent of the amount paid for educational expenses incurred on or after that date with a maximum credit of $250 with respect to the expenses of any eligible individual who is a full-time college undergraduate or postsecondary vocational school student. On October 1, 1980, the credit will be expanded to cover students in private elementary and secondary schools (including vocational secondary schools) and half-time undergraduate students. In addition, the maximum credit with respect to postsecondary educational expenses for any individual will be increased to $500 on October 1, 1980, for education furnished on or after that date. No credit will be allowed at any time for graduate school or for recreational courses.

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[4] Under section 152, the term "dependent" means certain individuals who are related to the taxpayer (or are members of his household) and who receive over half of their annual support from him.

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In any taxable year where payments are made for an eligible individual's postsecondary educational expenses incurred both before October 1, 1980, and after September 30, 1980, the maximum credit for that individual's expenses is $500, but only $500 of the amount paid for education furnished before October 1, 1980, may be taken into account in computing the credit.

In prescribing regulations for determining the allocation of expenses to the two 1980 credit periods, it is the intention of the committee that the Internal Revenue Service adopt rules which permit taxpayers to claim a reasonable allocation based on approximate, rather than precise, allocations where approximations would make computations easier for taxpayers. For example, if tuition is paid for a 12-week program which is conducted for five weeks before and seven weeks after October 1, 1980, the credit would be allowed for one-half of the tuition for the program.

If, for example, a taxpayer pays $600 on January 1, 1980, for postsecondary education furnished between January and May 1980, and $2,000 on August 1, 1980, for education furnished between August and December 1980, the computation of the credit generally would be as follows. For the first part of the year, he will have paid $2,600 but will be subject to a ceiling of $500 for eligible expenses. Thus, for that part of 1980, the taxpayer is entitled to the maximum $250 credit. For the second part of 1980 (October 1–December 31, 1980), the taxpayer would have incurred expenses for education furnished between October and December. By allocating the $2,000 paid in August over the period with respect to which the related education was furnished, the taxpayer is entitled to treat three-fifths of the $2,000, that is $1,200, as eligible expenses for the second part of 1980. In determining his credit for the second part of 1980, the taxpayer must reduce the $1,000 ceiling on expenses by $500, the amount of expenses taken into account for the first part of the year ($1,000–$500=$500). Because the taxpayer's expenses for the second part of 1980 exceed the ceiling, his credit for the second part of the year would be $250. His total credit for 1980 would be $500.

No educational expenses paid or incurred for education furnished before October 1, 1980, at private secondary or elementary schools (including vocational secondary schools) may be taken into account in claiming a credit. No credit may be claimed for any regular public school tuition. No amount may be taken into account for purposes of determining withholding exemptions before October 1, 1980, if such amount is allowable as a tuition tax credit on or after that date.

The credit will be allowed for educational expenses paid for postsecondary education only if the expenses are related to courses of instruction for which credit is allowable toward a baccalaureate or associate degree by an institution of higher education or toward a certificate of required course work at a postsecondary vocational school.

A credit is allowed only once for each taxable year with respect to the educational expenses of any one individual. An individual may not claim any credit for his educational expenses if the individual himself is a dependent of another taxpayer. Thus, a student whose parents are entitled to claim a personal exemption for him may not claim a credit for his own educational expenses; however, the student's parents may claim a credit only for educational expenses which they have paid for the student. A taxpayer may claim a credit for a spouse's educational

expenses only if the taxpayer may claim a personal exemption for his spouse or if the taxpayer files a joint return with his spouse.

Offsets

Any amounts taken into account as educational expenses of a student in determining a credit must be reduced by educational assistance which is not required to be included in gross income either by the student or by the individual claiming the credit. Thus, the expenses against which the 50-percent credit applies must be reduced (1) by scholarships or fellowship grants excludible from gross income under section 117; (2) any educational assistance received pursuant to chapter 32, 34, or 35 of title 38 of the United States Code (relating to Veterans' benefits); and (3) by any other educational assistance or payment for educational expenses, which is not includible in gross income by any U.S. law (for example, amounts received under the Armed Forces Health Professions Scholarship Program through calendar year 1979). However, no offset is required for a gift, bequest, devise, or inheritance within the meaning of section 102(a) of the Internal Revenue Code. Thus, for example, grandparents' gifts to grandchildren would not be offsets.

This reduction for tax-free assistance reduces the amount of expenses eligible for the credit prior to the application of the maximum dollar limitation on the amount of educational expenses which qualify for the credit.

Also, the amount of the credit which otherwise would be allowable for any taxable year must be reduced by any amounts received, with respect to any individual for any taxable year, under subpart 1 or 2 of part A of title IV of the Higher Education Act of 1965 or any successor statute. Therefore, amounts received under the Basic Educational Opportunity Grant Program (BEOG) or the Supplemental Educational Opportunity Grant Program (SEOG) will reduce the credit available to the recipient of funds from these programs. These amounts, however, will not reduce the amount of educational expenses which may be taken into account by a student in determining his or her credit.

Reductions for tax-free assistance are to be matched against the educational expenses for which the assistance is granted. Thus, if a taxpayer pays educational expenses in 1982 and claims a credit for that year, any educational assistance received in 1983 relating to the expenses paid in 1982 is to reduce the amount of expenses which may be taken into account in computing the credit for 1982. If amounts received as scholarships or fellowships, other educational assistance or payments excludible from income, or educational assistance pursuant to chapter 32, 34, or 35 of title 38 of the U.S. Code are apportioned by the grantor or donor between the educational expenses eligible for the credit and other expenses which may not be taken into account in determining the credit, such apportionment must be disregarded and all such tax-free amounts are to be applied in reducing tuition and fees, that is, educational expenses eligible for the credit.

Disallowance of expenses as deduction or credit

An individual may claim no deduction or credit under any other section of the Code for any educational expenses which he has taken into account in determining the amount of an educational expense

credit which he claims. However, a taxpayer may elect not to claim an educational expense credit and may claim any other deduction or credit to which he is entitled with regard to the educational expenses. Thus, for example, a calendar year taxpayer who incurs job-related postsecondary educational expenses of $1,000 in 1983 must choose between claiming an educational tax credit of $500 (under the new credit added by this amendment) or a trade or business expense deduction of $1,000 (sec. 162). If a calendar year taxpayer incurs job-related postsecondary educational expenses of $2,000 in 1982, he may claim an educational expense credit of $500 *and* a trade or business expense deduction of $1,000; or the taxpayer may elect not to claim any educational expense credit and may deduct the full $2,000 of educational expenses as trade or business expenses.

Definitions

The term "educational expenses" (that is, expenses taken into account in determining a credit) means tuition and fees required for a student's enrollment or attendance at an eligible educational institution. The term includes the normal annual, semester, course, or credit charges assessed by educational institutions as well as such required miscellaneous charges as registration fees and required course fees, for example, laboratory fees which are required for registration in courses involving laboratory work. Expenses which may not be counted in determining a credit include any amount paid, directly or indirectly, for books, supplies, and equipment for courses of instruction, or for meals, lodging, transportation, or similar personal, living, or family expenses.

Eligible educational expenses for elementary and secondary schools are limited to tuition and fees for grades one through twelve. No credit is allowed with respect to expenses paid or incurred for education below the first grade level or for attendance at a kindergarten or nursery.

The bill provides a special definition of the term "full-time student" for purposes of the "full-time student" limitation applicable prior to October 1, 1980.[5] The term means any student who, during any four calendar months during a calendar year in which the taxable year of the taxpayer begins, is a full-time student at an eligible educational institution.

A "half-time student" means any individual who, during any four calendar months during the calendar year in which the taxable year of the taxpayer begins is a half-time student at an eligible institution under regulations which are consistent with regulations prescribed by the Commissioner of Education to define a "half-time student."

Before October 1, 1980, an "eligible education institution" is an institution of higher education (but not including a graduate school) or a postsecondary vocational school in the 50 States and the District of Columbia. On October 1, 1980, the term broadens to include secondary schools and elementary schools, including vocational high schools.

In order to qualify as eligible education institutions, secondary and elementary schools must be privately operated and must meet two requirements. First, such schools must be operated in accordance with

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[5] The definition of full-time student for purposes of the credit for educational expenses differs from the definition of student in section 151(e)(4) (relating to deductions for personal exemptions), which provides a 5-month rule.

applicable state law. Second, privately operated schools also must qualify for tax-exempt status under section 501(c)(3) of the Internal Revenue Code. Schools which discriminate on the basis of race are denied tax-exempt status under case law interpreting section 501(c)(3).

In Revenue Ruling 71–447, 1971–2 C.B. 230, the Internal Revenue Service held that a private school that does not have a racially nondiscriminatory policy as to students does not qualify for exemption under section 501(c)(3). A "racially nondiscriminatory policy as to students" is defined as meaning that the school admits the students of any race to all the rights, privileges, programs, and activities generally accorded or made available to students at that school and that the school does not discriminate on the basis of race in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

In Revenue Procedure 75–50, 1975–2 C.B. 587, the Internal Revenue Service set forth the guidelines and recordkeeping requirements for determining whether private schools that are applying for recognition of exemption from Federal income tax under section 501(c)(3), or are presently recognized as exempt from tax, have racially nondiscriminatory policies.

In general, these guidelines are as follows:

(1) A school must include a statement in its charter, bylaws, or other governing instrument, or in a resolution of its governing body, that it has a racially nondiscriminatory policy as to students and therefore does not discriminate against applicants and students on the basis of race, color, and national or ethnic origin.

(2) Every school must include a statement of its racially nondiscriminatory policy as to students in all its brochures and catalogues dealing with student admissions, programs, and scholarships.

(3) The school must make its racially nondiscriminatory policy known to all segments of the general community served by the school.

(4) A school must be able to show that all of its programs and facilities are operated in a racially nondiscriminatory manner.

(5) As a general rule, all scholarships or other comparable benefits procurable for use at any given school must be offered on a racially nondiscriminatory basis. Their availability on this basis must be known throughout the general community being served by the school and should be referred to in the publicity necessary to satisfy the third requirement in order for that school to be considered racially nondiscriminatory as to students.

An individual authorized to take official action on behalf of a school that claims to be racially nondiscriminatory as to students must certify annually, under penalties of perjury, on an Internal Revenue form to be issued, that to the best of his knowledge and belief the school has satisfied the requirements listed above.

The existence of a racially discriminatory policy with respect to employment of faculty and administrative staff is indicative of a racially discriminatory policy as to students. Conversely, the absence of racial discrimination in employment of faculty and administrative staff is indicative of a racially nondiscriminatory policy as to students.

Failure to comply with the guidelines set forth in Revenue Procedure 75–50 ordinarily will result in the proposed revocation of the exempt status of a school.

The terms "elementary school" and "secondary school" include facilities which offer education for individuals who are physically or mentally handicapped (including emotionally handicapped individuals) as a substitute for public elementary or secondary education, whether or not the facilities are privately operated.

Report to the Congress

The bill requires the Attorney General and the Secretaries of the Departments of the Treasury, and of Health, Education and Welfare, to report jointly to the Congress on the effectiveness of the Internal Revenue Service's enforcement of policies against racial and other discrimination in private education. The report is to contain any suggestions which these officials may have to enhance enforcement of these policies. The first report must be submitted by June 1, 1980. An additional report must be filed by June 1, 1982.

An appeal from a decision of the Court of Appeals is to be brought directly to the U.S. Supreme Court within 20 days after the decision of the appellate court is entered. The bill indicates the committee's intention that the Court of Appeals and the Supreme Court of the United States advance on their dockets and expedite to the greatest extent possible the disposition of any challenge to the constitutionality of any provision of the tax credit for educational expenses.

Separability

The bill specifically provides that a judicial decision holding any provisioin of the educational expenses credit (or any other Code section relating to this credit) or the application of any provision of the credit to any person or in any circumstances to be invalid shall not affect the remainder of the credit provisions nor the application of the other provisions to other persons or circumstances.

Effective date

The bill applies to amounts paid after July 31, 1978 (in taxable years ending after that date) for educational expenses incurred after that date. No change in withholding exemptions may be made prior to October 1, 1980, for any amount allowable as a tuition tax credit on or after that date.

III. COSTS OF CARRYING OUT THE BILL AND VOTE OF THE COMMITTEE IN REPORTING H.R. 12050, AS AMENDED

Budget Effect

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs incurred in carrying out H.R. 12050, as amended by the committee. The committee estimates that the credit allowed by this bill will decrease budget receipts by $25 million in fiscal year 1978, by $578 million in fiscal year 1979, by $997 million in fiscal year 1980, by $1,848 million in fiscal year 1981, by $2,820 million in fiscal year 1982, and by $2,888 million in fiscal year 1983.

The Treasury Department agrees with this statement.

Vote of the Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee. The bill was ordered favorably reported by a voice vote after the following rollcall vote on the amendment in the nature of a substitute: In favor (15): Messrs. Long, Talmadge, Ribicoff, Nelson, Gravel, Hathaway, Matsunaga, Moynihan, Curtis, Hansen, Dole, Packwood, Roth, Laxalt, and Danforth; opposed (1) Bentsen.

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IV. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

Regulatory Impact

Pursuant to rule XXIX of the Standing Rules of the Senate, as amended by S. Res. 4 (February 4, 1977), the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of this bill.

A. Numbers of individuals and businesses who would be regulated.—The bill does not regulate individuals or businesses but generally provides tax relief to a large number of individuals.

B. Economic impact of regulation on persons affected.—The tax relief provided by this bill will reduce the cost of certain educational activities and thereby assist both students and their families to undertake and continue education.

C. Impact on personal privacy.—The bill has minimal impact on the personal privacy of taxpayers.

D. Determination of the amount of paperwork.—The bill will require additional tax computations and in some cases an additional tax form for individuals who elect it. Most of this paper work will require only the assembly of information which is already in the taxpayer's records. The time to assemble such information will vary with taxpayers but in no case should it be more than negligible. There will be no expense associated with claiming the relief provided by this bill.

Budget Impact of the Bill

In accordance with section 403 of the Budget Act, the committee advises that the Director of the Congressional Budget Office has examined H.R. 12050, as amended by the committee, and has submitted a statement that the bill, as amended, will provide new tax expenditures of $21 million in fiscal year 1978, $491 million in fiscal year 1979, $804 million in fiscal year 1980, $1,895 million in fiscal year 1981, $2,646 million in fiscal year 1982, and $2,761 million in 1983.

The following report was received from the Congressional Budget Office:

AUGUST 4, 1978.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Sections 308(a) and 403 of the Budget Act, the Congressional Budget Office has examined H.R. 12050, as amended by the Senate Finance Committee on August 3, 1978. H.R. 12050 would provide a nonrefundable tuition tax credit. From August 1, 1978 to October 1, 1980, the tax credit would allow a taxpayer to reduce his taxes by an amount equal to 50 percent of tuition

and fees paid by the taxpayer in any year, up to a maximum credit of $250 per student. The credit could be claimed only for undergraduate or vocational education students enrolled full-time or at least one-half time. On October 1, 1980, the credit maximum would be raised to $500 for postsecondary education students, and taxpayers with tuition expenses for elementary and secondary education would become eligible for a credit of up to $250. The credit would be reduced by the amount of any need-based federal aid (Basic Grants or Supplemental Grants). Other forms of financial aid would reduce the amount of tuition and fees eligible for the credit.

The bill would not provide any new budget authority. The bill would provide a new tax expenditure in the following amounts (in millions of dollars):

Fiscal Year	*Total Costs*
1978	21
1979	491
1980	804
1981	1,895
1982	2,646
1983	2,761

The Congressional Budget Office estimates that the costs incurred in carrying out the bill would be the same as the amounts shown as the increase in tax expenditures.

These estimates were derived from the Congressional Budget Office's tuition tax credit simulation model. An explanation of the simulation technique used by the Congresssional Budget Office to generate estimates of tuition tax credits is available upon request.

Sincerely,

ALICE M. RIVLIN,
Director.

The Congressional Budget Office estimates differ from the estimates made by the committee because of differences in assumptions made in the Revenue estimating processes. Although the Congressional Budget Office has highly detailed, computerized education information, the committee is relying on the tax data used in making its estimates.

In compliance with section 308(a)(2) of the Budget Act with respect to taxes expenditures, and after consultation with the Director of the Congressional Budget Office, the committee states that the bill would provide new and increased tax expenditures. The tax expenditures for fiscal years 1978–83 are the same as the amounts stated in Part III in the discussion of the bill's "Budget Effect."

V. CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, as reported).

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Calendar No. 990

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1067

WAIVER OF SECTION 303(a) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 3946

AUGUST 7 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MUSKIE, from the Committee on the Budget, submitted the following

REPORT

[To accompany S. Res. 524]

The Committee on the Budget, to which was referred the resolution, Senate Resolution 524, waiving section 303(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to consideration of H.R. 3946, the Tuition Tax Relief Act of 1978, reports unfavorably thereon, and recommends that the resolution not be adopted.

PURPOSE OF THE RESOLUTION

Section 303(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution or any amendment thereto providing new budget authority, new spending authority, or changes in revenues or public debt for a fiscal year until the first concurrent resolution on the budget for such fiscal year has been adopted.

A waiver of section 303(a) must be adopted before the Senate may consider H.R. 3946, because the bill, as reported, provides new spending authority in the form of refundable tax credits for fiscal years for which no first concurrent resolutions have been adopted, and provides a decrease in revenues first becoming effective in Fiscal Year 1980, a year for which no first concurrent resolution has been adopted. Although section 303(b) of the Budget Act provides a limited exception from section 303(a) in the case of revenue bills which first become effective in certain future fiscal years, the exception is inapplicable to the fiscal year—in this case 1980—which is the subject of the next first concurrent resolution required by section 301 of the Budget Act.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 303(a) of the Budget Act. One of the major purposes of the Congressional Budget Act was to bring the Federal budget under better control. Through the adoption each year of the first and second concurrent resolutions on the budget, Congress sets fiscal policy and national priorities for the fiscal year.

If legislation affecting spending or revenues for a future year is considered prior to the adoption of the congressional budget for that year, to that extent Congress loses control of the spending and priority decisions for that year prior to adoption of a congressional budget for that year. However, the Budget Act recognized that in some situations it may be appropriate to consider such legislation before the adoption of the first concurrent resolution.

PROVISIONS OF THE BILL: NEED FOR SECTION 303 WAIVER

H.R. 3946 provides (i) tax credits and payments in excess of tax liability to any taxpayer and (ii) payments to any nontaxpayer who pays tuition and fees for attendance at qualifying educational institutions for oneself, one's spouse, or one's dependents. The tax credits and direct payments provided by the bill take effect in three stages.

(1) Effective August 1, 1978, (i) taxpayers will be entitled to a tax credit and (ii) nontaxpayers will be entitled to a cash payment for 50 percent of tuition and fees for college expenses incurred by full-time students; with a maximum credit or payment of $250 per student;

(2) On August 1, 1980, the credits and payments will be increased to a maximum of $500 per student and will be extended to all elementary and secondary students; and

(3) On August 1, 1981, the credits and payments will be extended to graduate and part-time undergraduate students;

Although the payments are described in H.R. 3946 as "refundable tax credits" they are also "new spending authority" as defined in section 401(c) of the Budget Act, because the United States is obligated to make these payments, the budget authority for which is not provided for in advance by appropriation acts, to all persons (including nontaxpayers) who pay certain educational expenses.

Under H.R. 3946, individuals who are entitled to the tuition tax credit, but (i) who have no tax liability at all, or (ii) whose tax liability is exceeded by the tuition "credit," will receive direct payments in the amount by which the "credit" exceeds the tax liability, if any, they may have.

For example, if an individual were entitled to a credit of $250, but his tax liability was only $100, he would be entitled to receive a direct payment from the Treasury of $150, the difference between his tax liability and the total amount of the "credit" due him.

A nontaxpayer (even one who has no income and would not be liable for any taxes or eligible for any payment from the Treasury under existing laws) would, under H.R. 3946, be entitled to a payment of up to $250.

These payments constitute backdoor spending prohibited by section 401 of the Budget Act. They constitute "new spending authority" as defined in the Budget Act. Because the payments provided by H.R.

3946 increase in amount and expand to include elementary and secondary school students in 1980, and graduate and part-time students in 1981, they will mortgage future year budgets before competing demands have been considered in accordance with the congressional budget process. Section 303 of the Budget Act makes such legislation subject to a point of order to protect the congressional budget process and reduce the extent to which future budgets are mortgaged and uncontrollable spending increased.

H.R. 3946 also expands the tax credits it provides from $250 to $500 in fiscal year 1980, and also expands the beneficiaries of the credit to include taxpayers paying elementary and secondary school tuition. This expansion of the credit will reduce revenues in fiscal year 1980 before the budget resolution for that year is considered and so is also subject to a point of order under section 303.

BUDGET COMMITTEE DISAPPROVAL OF THE WAIVER—THE COST OF THE BILL EXPANDS UNCONTROLLABLY

Although the protective provisions of section 303 of the Budget Act can be waived in meritorious cases, the Budget Committee has voted 9 to 4 to disapprove Senate Resolution 524 and to report it unfavorably. The committee believes that the costs of the bill are so high—more than $5 billion a year within 5 years—the built-in multibillion dollar future expansions of the program in 1980 and 1981 should not be enacted until other competing demands on the budget and the size of the deficit through which these payments must be made can be ascertained and analyzed in the course of the regular budget process. Whatever the merits of the bill, the proposed expansions of its costs in future years which are subject to a point of order should not be enacted until the competing budget demands for those years are known. In fact, the only reason to enact a bill containing these future costs now is to avoid the congressional budget process and frustrate its budget control purposes.

H.R. 3946 establishes a budget "wedge" with significantly increased costs in future fiscal years. According to the Congressional Budget Office (CBO), the $0.6 billion total cost of the bill in fiscal year 1979 would increase to $5.3 billion in fiscal year 1983, when the bill first becomes fully effective, and cost more than $14 billion during the next 5 years. The following table shows the increasing costs of the bill:

	Fiscal year—					Total, 1979–83
	1979	1980	1981	1982	1983	
Reductions of tax liability for taxpayers	517	878	23,18	3,772	4,546	12,031
Payments in excess of tax liability for taxpayers	15	25	104	151	191	486
Payments to nontaxpayers	102	160	266	434	525	1,487
Total	634	1,163	2,688	4,357	5,262	14,004

The major purposes of the Budget Act are to bring congressional spending under control and to provide for an effective annual review of the budget. Both these purposes will be frustrated if a program like this, which is purposely designed to balloon in cost in unbudgeted future years, is enacted.

An oversight amounting to a loophole in the Budget Act provides that if the effective date of a tax cut is put off far enough into the future, it is not subject to the budget discipline. This loophole has frequently been used in the Senate—as in this case—to enact large tax cuts for unbudgeted future years which would be unthinkable if they had to be considered in light of competing priorities today.

Somehow such programs, which would be judged irresponsible if their costs were considered today, are deemed responsible by ignoring their costs until tomorrow, when they must be reckoned with. They will come to haunt our nation in the form of "uncontrollable expenses" and additions to future deficits.

There is simply no reason to believe that tomorrow's budget can bear the cost of this bill any better than today's. In fact, enactment of this special tax cut and Federal payment program to the part of the population which attends college and private elementary and secondary schools will deprive the rest of the tax paying population any share of this $14 billion in tax relief during the next 5 years.

Although the proponents of this legislation believe some delay in its parochial school tuition aid provisions is justified in order for the courts to determine whether these payments can withstand constitutional challenge, the costs of the bill are undisputed.

In fact, the costs of the bill will almost double—from $14 to $26 billion—during the second 5-year period it is in effect, even if no increase in aid is enacted and no greater numbers of students claim the credits and payments during those 5 years.

And this doubling of costs is based on conservative assumptions. Tremendous pressure will grow as prices rise in the future to increase the maximum credit benefit levels above the $500 per student provided in this bill by 1981. If the maximum credit were doubled to $1,000, the cost of the program would exceed $10 billion annually even if the number of student-claimants does not increase. In addition, these cost estimates do not assume any increase in the proportion of parents sending their children to private elementary and secondary schools as a result of the availability of this new form of Federal aid.

THE NEED TO CONSIDER COMPETING PRIORITIES

Even if the budget could bear this new multibillion dollar burden, H.R. 3946 poses major education and tax policy questions which should not be considered apart from the regular budget process.

First, the bill's multibillion dollar benefits give the same aid to millionaires and the poverty stricken. In this time of needed concern for the middle-income taxpayer, only 41 percent of the benefits provided under this bill would go to families usually regarded as middle income—those with incomes between $10,000 and $25,000. At the elementary and secondary level, 46 percent of the benefits would go to families with incomes above $25,000.

Yet the $14 billion 5-year cost of the bill would have to be paid for by all taxpayers. Families and individuals who have already completed college—and that majority of all American youth which never will attend private schools or college—will get nothing from the bill, although their taxes will pay for it for the rest of their lives.

These noncollege, nonprivate school taxpayers—who constitute the majority of the taxpaying population—will lose twice. They get nothing from the bill. And the cost of the bill will reduce any tax cut Congress may enact for the general population of which they are a part.

Even the minority of the taxpaying population which appears to get something for nothing under the bill, in fact, will pay dearly twice for it. First, much of the benefit they hoped to derive from the payments will be wasted by inflation, since this legislation will have an inflationary effect on tuition levels. By providing an almost universal subsidy, schools will have an irresistable incentive to simply increase tuition charges, thereby "capturing" the credit while families would not benefit. In addition, public colleges which now charge little or no tuition will not be slow to raise tuition costs to absorb what would otherwise simply be "pocket money" for their students.

And these temporary beneficiaries of the Federal Governments largesse will go on paying the bill for others in times of higher prices all the working days of their lives and into their retirements, with only slight repayment if their own children attend private schools or colleges in the future.

Finally, enactment of this bill would represent a dramatic shift in Federal education policy. Currently, Federal assistance to public education is targeted, special-purpose aid such as aid to the needy and handicapped. The average Federal subsidy to the public school student is $128. The private school student is allowed to participate in that targeted aid, too, and the average per-pupil expenditure is $40. This bill proposes to reverse course by providing an additional $250 for the private school student—double that of the public school child. Enactment of this bill would authorize general aid for the private school while prohibiting it to the public school.

CONCLUSION

The enactment of H.R. 3946 would add $5.3 billion a year to the Federal education budget by 1983. Should the alternative spending plan proposed by the President be adopted as well, there would be a total addition of $6.7 billion in Federal resources to the current Federal education effort. Such a large increase in the commitment of Federal resources would change our educational priorities overnight without careful and deliberate consideration.

Since this tuition aid would be enacted on a permanent basis, it is equivalent to a permanent entitlement program. Its enactment would represent a permanent loss of congressional budget control over a major multibillion dollar budget program.

For these reasons, the Budget Committee concluded that no reason exists to justify waiving the Budget Act bar to consideration of such major spending legislation which so cheaply mortgages the future in contravention of the budget process mandated by the Congressional Budget Act.

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Calendar No. 992

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1069

ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, 1979

AUGUST 7 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 12928]

The Committee on Appropriations, to which was referred the bill (H.R. 12928) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended:

Budget estimates considered by the House	$10,368,899,000
Amount of bill as passed by House	10,341,633,900
Decrease by Senate Committee (net)	−221,489,000
Amount of bill reported to Senate	10,120,144,900
Budget estimates considered by Senate	11,039,949,000
Amount of appropriations, 1978	10,439,873,000
The bill as reported to the Senate—	
Under the budget estimates, 1979	−919,804,100
Under the appropriation, 1978	−319,728,100

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Introduction

Energy and water are the fundamental, inseparable subjects of this appropriation bill. Simply stated, these resources are the Nation's lifeblood. Only with secure supplies and careful management of these, our most precious resources, can our Nation be assured of a secure, stable, and prosperous future. And, the wise use, development and management of these resources for current needs and thoughtful conservation for future needs are essential.

The activities and propects funded in this bill are an integral part of the foundation and infrastructure required to provide for the needs and wants of the people of our Nation today and in the future. While relatively small in the context of the total Federal budget, the expenditures authorized in this bill are capital investments that will return significant economic and other benefits to the Nation. The significance of past investments in these programs is great, and the tangible returns to the Nation as a whole and to communities throughout the country have been analyzed and found to be far greater than the costs of undertaking them.

Purpose

The purpose of this bill is to provide appropriations for the fiscal year 1979 beginning October 1, 1978 and ending September 30, 1979 for energy and water development and for other related purposes. It supplies funds for the Department of Energy (except for fossil fuel programs and certain conservation and regulatory programs) in title I; for water resources development programs and related activities of the Department of the Army, Civil Functions—U.S. Army Corps of Engineers' Civil Works program in title II; for the Department of the Interior's Bureau of Reclamation in title III; and for related independent agencies and commissions, including the Appalachian Regional Commission and Appalachian Regional Development Programs, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the Water Resources Council in title IV.

Summary of Estimates and Recommendations

The President's fiscal year 1979 budget estimates, as amended, for this bill total $11,039,949,000 in new budget (obligations) authority. The recommendation of the Committee totals $10,120,144,900. This is a reduction of $919,804,000 from the amended budget estimates and $221,489,000 less than the House bill. The following table summarizes appropriations for fiscal year 1978, the budget estimates, the House amounts, and the Committee recommendation:

	1978 enacted to date	1979 budget estimates	1979 House bill	Committee recommendation	Recommendation compared with—		
					1978 enacted	1979 budget estimates	1979 House bill
Title I—Department of Energy	$6,268,191,000	$6,509,027,000	$6,183,066,000	$6,044,394,000	−$223,797,000	−$464,633,000	−$138,672,000
Title II—Department of Defense—Civil	2,733,692,000	2,971,165,000	2,679,759,000	2,645,620,000	−88,072,000	−325,545,000	−34,139,000
Title III—Department of the Interior	677,926,000	735,770,000	625,266,900	566,915,000	−111,011,000	−168,855,000	−58,351,900
Title IV—Independent agencies	780,064,000	823,487,000	853,542,000	883,215,900	+103,151,900	+39,728,900	+9,673,900
Grand total of the bill	10,439,873,000	11,039,949,000	10,341,633,900	10,120,144,900	−319,728,100	−919,804,100	−221,489,000

HEARINGS BY THE SUBCOMMITTEE

The Subcommittee on Public Works of the Committee on Appropriations held 37 sessions of hearings (30 different days) in connection with the fiscal year 1979 appropriation bill. Two closed hearing sessions were held on classified matters in this bill. Witnesses included officials and representatives of the Federal agencies; numerous Members of the Senate and House of Representatives, Governors, State and local government officials and representatives; and hundreds of citizens of all walks of life from throughout the United States.

VOTES IN THE COMMITTEE

The subcommittee, by unanimous vote of a quorum present, on July 27, 1978 recommended that the bill, as amended, be reported to the full Committee on Appropriations.

The Committee, by unanimous vote of a quorum present on August 7, 1978 recommended that the bill, as amended, be reported.

COMPLIANCE WITH PARAGRAPH 8, RULE XVI, STANDING RULES OF THE SENATE

The following items of appropriations recommended by the Committee, not made to carry out the provisions of existing law or an act passed by the Senate in this session are brought to the attention of the Senate in accordance with rule XVI, paragraph 8.

(1) Under title I, Department of Energy, appropriations are recommended for programs, the authorization for which is contained in S. 2692 and S. 2693, now on the Senate Calendar.

(2) Under title IV, Nuclear Regulatory Commission, appropriations are recommended for this agency for which authorization is contained in S. 2584 now on the Senate Calendar.

STATUS OF AUTHORIZING LEGISLATION

Because of the uncertainty involving action on the required authorizing legislation for the Department of Energy and the Nuclear Regulatory Commission, the Committee has agreed to report the recommended appropriations for these two agencies with provisions in the bill which provide that none of the funds shall be available for obligation until enactment into law of authorizing legislation. It is the Committee's firm intent in adding these provisions that not one nickel should be spent until the authorizing legislation is enacted.

The Committee action in this instance is to meet special legislative circumstances and is an exception to the Committee's general policy of requiring authorization prior to reporting appropriations.

TITLE I

DEPARTMENT OF ENERGY

The Department of Energy was created last year by Public Law 95–91, The Department of Energy Organization Act. This bill contains the first direct, annual appropriation to the Department for its programs and activities which were previously scattered among the Energy Research and Development Administration, the Federal Power Commission, the power marketing activities of the Department of the Interior and other agencies. These agencies and other functions were consolidated in this new Department which is responsible for a comprehensive, coordinated approach to energy policy, regulation, research, development and demonstration as well as for formulation and implementation of a national energy program.

The Committee recommendation provides a total of $6,044,394,000 in new budget (obligational) authority for the Department's programs and activities funded in this bill. This amount is $464,633,000 less than the amended budget estimates and $138,672,000 less than House allowance. Other appropriations to the Department are included in the Interior and Related Agencies Appropriation Bill for Fossil Energy R. & D., production, demonstration and distribution; conservation programs; the Economic Regulatory Administration; Energy Information Administration; and Strategic Petroleum Reserve.

Funds recommended in this bill provide for programs and activities relating to Energy Research and Technology Development; Uranium Supply and Enrichment; General Science and Research; Atomic Energy Defense activities; Policy, Management and Support; Power Marketing Activities; the Federal Energy Regulatory Commission; and Special Foreign Currency Programs. No additional funding is required in fiscal year 1979 for the Geothermal Resources Development Fund since adequate resources for 1979 activities are available from prior year appropriations.

ENERGY, SCIENCE AND DEFENSE ACTIVITIES

OPERATING EXPENSES

Appropriations, 1978	$4, 478, 255, 000
Budget estimate, 1979	4, 881, 368, 000
House allowance	4, 865, 437, 000
Committee recommendation	4, 839, 850, 000
Comparison:	
Budget estimate	−41, 518, 000
House allowance	−25, 587, 000

The following tabulation outlines the recommendations by program for new budget (obligational) authority in comparison with the current year, the budget estimate, and the House allowance:

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
OPERATING EXPENSES—BUDGET AUTHORITY

(IN THOUSANDS OF DOLLARS)

	Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
OPERATING EXPENSES				
ENERGY RESEARCH AND TECHNOLOGY DEVELOPMENT PROGRAM				
Solar Energy				
Solar thermal applications:				
Heating and cooling of buildings	29,500	33,100	46,600	35,000
Heating and cooling demonstration program	64,400	41,000	59,000	51,000
Agricultural and industrial process heat	10,300	11,000	11,000	11,000
Subtotal, solar thermal applications	104,200	85,100	116,600	97,000
Technology utilization:				
Solar satellite	500	4,600	4,600	4,600
Other	8,500	14,500	9,500	9,500
Subtotal, technology utilization	9,000	19,100	14,100	14,100
Photovoltaics	76,200	105,800	125,000	105,800
Wind energy	35,300	59,300	59,300	59,300
Ocean thermal	23,300	19,000	27,200	20,000
Solar thermal	60,100	69,000	69,100	69,100
Total, solar energy	308,100	357,300	411,300	365,300
Geothermal Energy				
Engineering research and development	15,500	21,600	25,100	24,100
Resource exploration and assessment	17,600	29,400	32,400	32,400
Hydrothermal technology applications	28,000	27,200	27,200	31,200
Advanced technology applications	22,500	39,600	45,100	32,600
Utilization experiments	12,000	7,500	11,500	7,500
Environmental control and institutional studies	8,100	11,400	11,400	11,400
Total, geothermal energy	103,700	136,700	152,700	139,200
Biomass				
Fuels from biomass	20,250	36,400	52,100	36,400
Hydroelectric				
Feasibility studies loan program	—	10,000	—	10,000
Low-head hydroelectric development	10,000	18,000	15,000	18,000
Total, hydroelectric	10,000	28,000	15,000	28,000
Fusion Energy				
Magnetic fusion	203,900	225,000	233,000	236,000
Inertial confinement (civilian applications)	—	—	8,800	—
Total, fusion energy	203,900	225,000	241,800	236,000
Electric energy systems	36,700	38,000	40,000	38,000
Energy storage	48,500	55,900	56,900	55,900
Light Water Reactors				
LWR technology	18,800	13,900	23,900	13,900
Nuclear fuel cycle	92,400	48,850	66,850	64,850
Waste management (civilian applications)	158,500	152,100	152,100	152,100
Domestic spent fuel storage	—	3,000	3,000	3,000
Light water reactor safety studies	24,342	6,500	6,500	6,500
International spent fuel storage	5,000	3,000	3,000	3,000
Total, light water reactors	299,042	227,350	255,350	243,350

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
OPERATING EXPENSES—BUDGET AUTHORITY—CONTINUED

(IN THOUSANDS OF DOLLARS)

	Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
Liquid Metal Fast Breeder Reactor				
Advanced technology demonstration project	---	15,000	35,000	15,000
Breeder reactor demonstration project	80,000	13,400	157,500	172,400
Base development program	332,805	251,301	272,801	272,801
Total, liquid metal fast breeder reactor	412,805	279,701	465,301	460,201
Other Advanced Reactor Concepts				
Water-cooled breeder reactor	38,600	50,900	45,900	50,900
Gas-cooled thermal reactor	31,000	28,500	34,500	44,500
Gas-cooled fast breeder reactor	14,670	30,500	24,500	24,500
Nuclear energy assessments	15,565	6,300	10,300	10,300
Alternate advanced reactor systems	---	20,000	---	8,000
Total, other advanced reactor concepts	99,835	136,200	115,200	138,200
Space Nuclear Systems				
Technology development and special projects	14,842	4,000	4,000	4,000
Space applications	31,008	39,400	34,400	34,400
Total, space nuclear systems	45,850	43,400	38,400	38,400
Environmental Research and Development				
Overview and assessment	48,010	48,650	60,950	48,650
Biomedical and environment research	141,946	135,338	143,498	142,338
Total, environmental research and development	189,956	183,988	204,448	190,988
Basic Energy Sciences				
Nuclear science	26,063	28,400	28,400	28,400
Materials sciences	65,709	72,000	72,000	72,000
Chemical sciences	43,285	48,200	48,200	48,200
Engineering, mathematical, and geosciences	11,480	23,203	15,700	21,700
Advanced energy products	3,187	3,800	3,800	3,800
Total, basic energy sciences	149,724	175,600	168,100	174,100
Advanced technology and assessment	7,535	16,690	5,000	8,000
Total, energy research and technology development programs	1,935,897	1,940,229	2,221,599	2,152,039
URANIUM SUPPLY AND ENRICHMENT ACTIVITIES				
Uranium resource assessment	59,485	81,200	65,000	71,200
Isotope separation technology:				
U-235 process development	77,400	72,300	72,300	72,300
Advanced isotope separation technology	43,617	46,200	46,200	46,200
Total, isotope separation technology	121,017	118,500	118,500	118,500
Uranium enrichment activities	886,752	904,100	904,100	904,100
Less uranium enriching revenues	-965,820	-1,022,600	-1,022,600	-1,022,600
Total, uranium supply and enrichment activities	101,434	81,200	65,000	71,200
GENERAL SCIENCE AND RESEARCH PROGRAMS				
High energy physics	187,950	194,000	197,000	194,000
Life sciences research and biomedical applications	41,510	39,700	39,700	39,700
Nuclear physics	69,148	72,900	74,900	76,900
Total, general science and research programs	298,608	306,600	311,600	310,600

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
OPERATING EXPENSES—BUDGET AUTHORITY—CONTINUED

(IN THOUSANDS OF DOLLARS)

	Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
ATOMIC ENERGY DEFENSE ACTIVITIES				
Weapons Activities				
Research and development	360,000	374,694	374,694	372,694
Testing of atomic weapons	229,100	210,000	210,000	210,000
Production and surveillance	550,149	648,000	603,600	641,800
Total, weapons activities	1,139,249	1,232,694	1,188,294	1,224,494
Special Nuclear Materials				
Production	284,014	324,100	324,100	324,100
Process development	13,605	12,400	12,400	12,400
Waste management (Defense)	123,247	165,000	165,000	165,000
Total, special nuclear materials	420,866	501,500	501,500	501,500
Inertial confinement fusion	104,000	91,800	104,000	101,000
Nuclear materials security and safeguards	37,906	40,089	40,089	40,089
Intelligence and arms control	24,675	28,400	28,400	32,600
Naval reactors development	216,556	265,600	265,600	265,600
Total, atomic energy defense activities	1,943,252	2,160,083	2,127,883	2,165,283
POLICY, MANAGEMENT AND SUPPORT				
Salaries and Expenses				
Office of the Secretary:				
Immediate office	480	512	512	512
Executive secretariat	841	926	926	926
Committees and boards	124	142	142	142
Subtotal, Office of the Secretary	1,445	1,580	1,580	1,580
Departmental administration:				
Office of the Controller	7,470	8,050	8,050	8,050
Inspector General	2,420	2,625	2,625	2,625
Procurement and Contracts Management	5,260	5,875	5,260	5,260
Administration	15,690	16,890	15,690	15,690
General Counsel	6,800	7,330	6,800	6,800
Assistant Secretary for Intergovernmental and Institutional Relations	7,775	8,380	7,775	7,775
Assistant Secretary for Policy and Evaluation	5,050	5,450	5,450	5,450
Assistant Secretary for International Affairs	3,685	3,985	3,685	3,685
Energy Research-Staff	1,745	1,905	1,355	1,355
Equal Employment Opportunity-Federal	510	570	570	570
Subtotal, Departmental Administration	56,405	60,860	57,260	57,260
Program administration:				
Assistant Secretary for Energy Technology	21,093	22,897	22,897	22,897
Assistant Secretary for Resource Applications	3,575	3,983	3,983	3,983
Assistant Secretary for Environment	7,480	8,060	8,060	8,060
Assistant Secretary for Defense Programs	7,510	8,100	8,100	8,100
Assistant Secretary for Conservation and Solar Applications	2,257	2,406	2,406	2,406
Energy Research-Line	1,610	1,725	1,725	1,725
Field offices:				
Operations offices	57,865	62,180	57,865	57,865
Regional representatives	7,405	7,500	7,980	7,980
Other special project offices	8,373	9,019	9,019	9,019
Subtotal, program administration	117,168	126,350	122,035	122,035

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
OPERATING EXPENSES—BUDGET AUTHORITY—CONTINUED

(IN THOUSANDS OF DOLLARS)

	Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
Other Expenses:				
Other salary expenses	11,390	12,475	11,475	11,475
Benefits	18,735	19,465	19,465	19,465
Travel	10,272	10,266	10,266	10,266
Services	69,996	70,500	70,500	70,500
Subtotal, other expenses	110,393	112,706	111,706	111,706
Subtotal, salaries and expenses	285,411	301,496	292,581	292,581
Effect of 3% reduction	---	-7,500	---	---
Total, salaries and expenses	285,411	293,996	292,581	292,581
Program Support				
Policy and program analysis	859	2,905	2,905	859
General systems studies	14,000	17,000	17,000	14,000
Institutional relations	28,619	29,660	28,457	34,876
Consumer affairs	650	1,250	650	650
Public awareness	3,572	3,250	3,250	3,250
International cooperation in nonnuclear technologies	3,703	3,250	3,250	3,250
Subtotal, policy and external relations	51,403	57,315	55,512	56,885
In-house energy management	---	3,600	3,600	3,600
Security investigations	12,150	13,900	13,900	13,900
Equal employment opportunity	3,810	4,332	4,332	4,332
Decontamination and decommissioning	18,000	28,000	25,000	25,000
Cost of work for others	18,265	22,600	22,600	22,600
Changes in inventories and working capital	40,045	35,313	-13,000	7,000
Subtotal, other supporting services	92,270	107,745	56,432	76,432
Miscellaneous revenues	-100,720	-54,000	-112,900	-112,900
Total, program support	42,953	111,060	-956	20,417
Total, policy, management and support	328,364	405,056	291,625	312,998
APPROPRIATION FINANCING				
Appropriations transfers	500	500	500	500
Changes in unobligated balances	---	---	---	---
Transfers to plant and equipment	---	---	---	---
Unobligated balances brought forward	-129,800	-12,300	-152,770	-172,770
Total, net appropriation financing	-129,300	-11,800	-152,270	-172,270
Total, operating expenses-budget authority	4,478,255	4,881,368	4,865,437	4,839,850

Energy, Science and Defense Activities

PLANT AND CAPITAL EQUIPMENT

Appropriations, 1978	$1,618,849,000
Budget estimate, 1979	1,438,416,000
House allowance	1,120,856,000
Committee recommendation	1,005,771,000
Comparison:	
Budget estimate	−432,645,000
House allowance	−115,085,000

The following tables outline the recommendations by program for new budget (obligational) authority in comparison with the current year, the budget estimates, and the House allowances:

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
CONSTRUCTION—BUDGET AUTHORITY

(IN THOUSANDS OF DOLLARS)

Project number		Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
	CONSTRUCTION				
	SOLAR ENERGY				
79-1-m	Ocean thermal energy conversion	---	13,500	24,200	13,500
79-1-n	Tropic oceans grazing pilot plant	---	---	3,800	---
76-2-b	10 MW central receiver solar thermal powerplant, Barstow, Calif	---	28,000	28,000	28,000
	Total, solar	---	41,500	56,000	41,500
	FUSION ENERGY				
	Magnetic Fusion				
79-6	General plant projects	---	1,400	1,400	1,400
78-3-a	Mirror fusion test facility, Lawrence Livermore Laboratory, California	---	40,000	40,000	40,000
76-3-a	Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J.	---	42,000	42,000	42,000
78-3-b	Fusion materials irradiation test facility, HEDL, Washington	---	---	6,900	6,900
	Total, fusion energy	---	83,400	90,300	90,300
	LIGHT WATER REACTORS				
	Nuclear Fuel Cycle				
78-5-b	Advanced fuel recycle integrated equipment test facility, Oak Ridge, Tenn	---	6,000	6,000	6,000
79-6	General Plant Projects	---	750	750	750
	Total, nuclear fuel cycle	---	6,750	6,750	6,750
	Waste Management (Civilian Applications)				
78-5-a	Facilities for the national waste terminal storage program, site undetermined (land acquisition and long-lead procurement)	---	25,000	25,000	25,000
	LWR Safety Facilities				
79-1-j	Reactivation of radioactive material laboratory and hot cell annex, Test Area North, Idaho National Engineering Laboratory, Idaho	---	3,000	3,000	3,000
	Total, light water reactors	---	34,750	34,750	34,750
	LIQUID METAL FAST BREEDER REACTOR				
	Base Development Program				
79-1-b	Modifications to reactors	---	4,000	4,000	4,000
79-1-c	Security improvements, Richland, Wash	---	4,500	4,500	4,500
79-1-d	Second power tieline, Idaho National Engineering Laboratory, Idaho Falls, Idaho	---	2,600	2,600	2,600
79-1-e	Fire safety and protection improvements, Idaho National Engineering Laboratory, Idaho Falls, Idaho, and Argonne National Laboratory, Argonne, Ill	---	3,100	3,100	3,100
79-1-f	Radioactive waste treatment facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho	---	2,000	2,000	2,000
79-1-g	Test area north radioactive liquid waste storage and transfer system, Idaho National Engineering Laboratory, Idaho Falls, Idaho	---	1,000	1,000	1,000
79-h-1	Maintenance and storage facility, Richland, Wash	---	3,000	3,000	3,000
79-6	General plant projects	---	14,985	14,985	14,985
78-6-c	Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E, long-lead procurement only)	---	---	4,000	---
78-6-d	Experimental breeder reactor II modification, Idaho Falls, Idaho (A-E and selected long-lead procurement only)	---	---	5,000	---

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
CONSTRUCTION—BUDGET AUTHORITY—CONTINUED

(IN THOUSANDS OF DOLLARS)

Project number		Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
78-6-e	Liquid metal engineering center facility modifications, Liquid Metal Engineering Center, Santa Susana, Calif. (A-E and long-lead procurement only)	---	4,000	4,000	4,000
78-6-f	Fuels and materials examination facility, Richland, Wa	---	15,000	25,000	15,000
78-7-a	Modifications to utility system, 300 area, Richland, Wash	---	900	900	900
78-7-b	Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho	---	600	600	600
77-4-c	High performance fuel laboratory, Richland, Wash	---	---	5,000	---
77-4-d	Fuel storage facility, Richland, Wash	---	6,800	6,800	6,800
	Total, liquid metal fast breeder reactor	---	62,485	86,485	62,485
	OTHER ADVANCED REACTOR CONCEPTS				
	Water Cooled Breeder Reactor				
79-1-i	AWBA Test and examination facilities, Bettis Atomic Power Laboratory, West Miffin, Pa	---	9,000	---	9,000
	ENVIRONMENTAL RESEARCH AND DEVELOPMENT				
	Biomedical and Environmental Research				
79-3-a	Modifications and additions to biomedical and environmental research facilities, various locations	---	4,000	4,000	4,000
79-3-b	Modifications to planned biomedical facility, LASL	---	---	440	---
79-3-c	Environmental and Energy technology facility, Richland, Wash	---	---	2,000	---
79-6	General Plant projects	---	6,000	6,000	6,000
	Total, environmental research and development	---	10,000	12,440	10,000
	BASIC ENERGY SCIENCES				
	Materials Sciences				
79-1-k	Intense pulsed neutron source-1, Argonne National Laboratory, Argonne, Ill	---	6,400	6,400	6,400
78-13-a	National synchrotron light source, Brookhaven National Laboratory, Upton, N.Y	---	10,000	10,000	10,000
	Total, materials sciences	---	16,400	16,400	16,400
	Chemical Sciences				
79-6	General plant projects	---	2,900	2,900	2,900
78-13-b	Combustion research facility, Sandia Laboratories, Livermore, Calif. (SLL)	---	3,400	3,400	3,400
	Total, chemical sciences	---	6,300	6,300	6,300
	Total, basic energy sciences	---	22,700	22,700	22,700
	URANIUM SUPPLY AND ENRICHMENT ACTIVITIES				
	Uranium Resource Development				
79-6	General plant projects	---	1,500	1,500	1,500
	Isotope Separation Technology				
	U235 Process development				
79-2-d	Technology test facilities, various locations (A-E and long-lead procurement only)	---	7,000	7,000	7,000
78-14-a	Centrifuge Facilities Modifications, various locations	---	16,000	16,000	16,000
	Total, isotope separation technology	---	23,000	23,000	23,000

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
CONSTRUCTION—BUDGET AUTHORITY—CONTINUED

(IN THOUSANDS OF DOLLARS)

Project number		Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
	Uranium Enrichment Activities				
79-2-a	UF 6 tails cylinders and storage yards, gaseous diffusion plants	---	11,000	11,000	11,000
79-2-b	Coal and ash handling modifications, Portsmouth gaseous diffusion plant, Portsmouth, Ohio	---	2,300	2,300	2,300
79-2-c	Upgrade uranium recovery, Portsmouth gaseous diffusion plant, Portsmouth, Ohio	---	3,600	3,600	3,600
79-6	General plant projects	---	15,000	9,000	9,000
78-14-b	Process control modifications, gaseous diffusion plants	---	5,600	5,600	5,600
78-15-a	Water system improvements, gaseous diffusion plant, Paducah, Ky	---	2,000	2,000	2,000
77-9-a	Expansion of feed vaporization and sampling facilities, gaseous diffusion plants	---	3,000	4,000	3,000
76-8-g	Enriched uranium production facilities, Portsmouth, Ohio	---	250,000	175,000	135,000
71-1-f	Process equipment modifications, gaseous diffusion plants	---	97,000	97,000	97,000
	Subtotal, uranium enrichment activities	---	389,500	309,500	268,500
	Less uranium enriching revenues	---	-156,700	-256,700	-256,700
	Total, uranium supply and enrichment activities	---	257,300	77,300	36,300
	GENERAL SCIENCE AND RESEARCH PROGRAMS				
	High Energy Physics				
79-9-a	Hadron bubble chamber facility, Fermi National Accelerator Laboratory, Batavia, Ill	---	2,200	2,200	2,200
79-9-b	Energy saver/doubler, Fermi National Accelerator Laboratory, Batavia, Ill	---	10,000	20,000	10,000
79-9-c	Fire protection improvements, Brookhaven National Laboratory, Upton, N.Y	---	1,300	1,300	1,300
79-9-d	Accelerator improvements and modifications, various locations	---	4,500	4,500	4,500
79-6	General plant projects	---	3,800	3,800	3,800
78-10-b	Intersecting storage accelerator (Isabelle) 400 by 400 Gev, Brookhaven National Laboratory, Upton, N.Y.	---	23,000	23,000	23,000
75-6-c	Positron-electron joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center, Stanford, Calif	---	14,700	14,700	14,700
	Total, high energy physics	---	59,500	69,500	59,500
	Nuclear Physics				
79-9-e	Accelerator improvements and modifications, various locations	---	1,500	1,500	1,500
79-6	General plant projects	---	2,900	2,900	2,900
78-12-b	High intensity uranium beams, Lawrence Berkeley Laboratory, Berkeley, Calif	---	6,000	6,000	6,000
	Total, nuclear physics	---	10,400	10,400	10,400
	Total, general science and research programs	---	69,900	79,900	69,900
	ATOMIC ENERGY DEFENSE ACTIVITIES				
	Weapons Activities				
	Research and development				
79-7-a	Tonopah Test Range upgrade, phase II, Sandia Laboratories, Albuquerque, N. Mex	---	4,000	4,000	4,000
79-7-b	Fire protection improvements, Los Alamos Scientific Laboratory, New Mexico (A-E and long-lea procurement only)	---	2,000	2,000	2,000

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
CONSTRUCTION—BUDGET AUTHORITY—CONTINUED

(IN THOUSANDS OF DOLLARS)

Project number		Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
79-7-c	Proton storage ring, Los Alamos Scientific Laboratory, New Mexico	---	16,700	2,000	2,000
79-7-d	Water cooling station upgrade, Lawrence Livermore Laboratory, California	---	2,300	2,300	2,300
79-7-l	Systems R. & D. laboratory, Sandia Laboratory	---	---	1,000	1,000
79-6	General plant projects	---	21,400	18,400	18,400
78-16-c	High explosive flash radiography facility, LLL	---	---	7,900	5,900
78-16-g	Radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico	---	9,700	5,700	5,700
78-16-i	Laboratory support complex, Los Alamos Scientific Laboratory, New Mexico	---	14,000	8,000	11,000
78-17-c	Core facilities office building, utilities, and roads, Lawrence Livermore Laboratory, California	---	9,300	9,300	9,300
79-7-p	Facilities for modern strategic bomb - various locations	---	---	---	15,500
	Total, research and development	---	79,400	60,600	77,100
	Production and Surveillance				
79-7-e	Production and assembly facilities, Pantex plant, Amarillo, Tex	---	10,000	2,000	2,000
79-7-f	Stockpile quality evaluation facility, Y-12 plant, Oak Ridge, Tenn	---	2,300	2,300	2,300
79-7-g	Facilities for B43 modernization, various locations	---	18,000	---	---
79-7-m	Weapons materials anal. laboratory, Amarillo, Texas	---	---	1,500	1,500
79-7-n	Utility systems, Y-12	---	---	2,200	2,200
79-7-o	Universal pilot plant, HE Amarillo, Texas	---	---	3,500	3,500
79-8	Plant engineering and design	---	10,000	10,000	10,000
78-16-d	Weapons safeguards, various locations	---	11,000	11,000	9,000
78-17-a	Production component warehouse, Pantex Plant, Amarillo, Tex	---	800	800	800
78-17-d	Steam plant improvements, Y-12 Plant, Oak Ridge, Tenn.	---	5,000	5,000	5,000
71-9	Fire, safety and adequacy of operationg conditions projects, various locations	---	5,000	5,000	5,000
	Total, production and surveillance	---	62,100	43,300	41,300
	Total, weapons activities	---	141,500	103,900	118,400
	Special Nuclear Materials Production				
79-7-h	Utilities replacement and expansion, Idaho chemical processing plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho	---	10,500	5,000	5,000
79-7-i	Transmission and distribution systems upgrading, Richland, Wash	---	14,000	2,600	2,600
79-7-j	Pollution discharge elimination, Savannah River, S.C.	---	9,000	6,000	9,000
79-6	General plant projects	---	16,200	10,000	12,000
79-8	Plant engineering and design	---	1,500	1,500	1,500
78-18-e	Environmental, safety and security improvements to waste management and materials processing facilities, Richland	---	30,000	13,000	13,000
77-13-a	Flourinel dissolution process and fuel receiving improvements, Idaho chemical processing plant, Idaho National Engineering Laboratory, Idaho	---	100,400	47,000	47,000
77-13-g	Safeguards and security upgrading, production facilities, multiple sites	---	3,800	3,800	3,800
	Total, production	---	185,400	88,900	93,900
	Waste Management (Defense)				
79-7-k	Waste management facilities, Savannah River, S.C.	---	24,000	8,000	8,000
79-8	Plant engineering and design	---	12,000	6,000	10,000
78-18-a	High-level waste storage and waste management facilities, Richland, Wash	---	9,000	9,000	9,000
78-18-b	High-level waste storage facilities, Savannah River, S.C.	---	26,000	11,000	11,000
77-13-d	High-level waste storage and waste management facilities, Savannah River, S.C.	---	4,000	4,000	4,000
77-13-f	Waste isolation pilot plant, Delaware Basin, southeast New Mexico	---	40,000	40,000	10,000
75-7-c	Intermediate-level waste management facilities, Oak Ridge National Laboratory, Tennessee	---	1,000	1,000	1,000

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
CONSTRUCTION—BUDGET AUTHORITY—CONTINUED

(IN THOUSANDS OF DOLLARS)

Project number		Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
75-1-c	New waste calcining facility, Idaho chemical processing plant, Idaho National Engineering Laboratory, Idaho	---	10,000	10,000	26,000
	Total, waste management (defense)	---	126,000	89,000	79,000
	Total, special nuclear materials	---	311,400	177,900	172,900
	Inertial Confinement Fusion				
78-4-a	High energy laser facility (NOVA), Lawrence Livermore Laboratory, California	---	20,000	20,000	10,000
75-3-b	High energy laser facility, Los Alamos Scientific Laboratory, New Mexico	---	6,000	10,000	10,000
	Total, inertial confinement fusion	---	26,000	30,000	20,000
	Naval Reactors Development				
79-6	General plant projects	---	3,000	3,000	3,000
	Total, atomic energy defense activities	---	481,900	314,800	314,300
	POLICY, MANAGEMENT AND SUPPORT				
	In-House Energy Management				
79-4-a	Modifications for energy management, various locations	---	25,000	25,000	2,655
79-4-b	Heating, ventilating, and air-conditioning heat recovery, Richland, Wash	---	4,000	4,000	4,000
78-1-c	Process waste heat utilization, gaseous diffusion plant, Padacuh, Ky	---	4,800	4,800	4,800
	Total, in-house energy management	---	33,800	33,800	11,455
	Other Supporting Activities				
79-5	Plant engineering and design	---	10,000	3,000	3,000
78-19-a	Program support facility, Argonne National Laboratory, Argonne, Ill	---	10,600	10,600	---
	Total, other supporting activities	---	20,600	13,600	3,000
	Total, policy management and support	---	54,400	47,400	14,455
	Unobligated balance brought forward - Function 053	---	-23,500	-23,500	-23,500
	Unobligated balance brought forward - Function 271	---	---	-11,000	-11,000
	Total, construction	---	1,103,835	787,575	671,190

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
CAPITAL EQUIPMENT—BUDGET AUTHORITY

(IN THOUSANDS OF DOLLARS)

	Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
CAPITAL EQUIPMENT				
ENERGY RESEARCH AND TECHNOLOGY DEVELOPMENT PROGRAM				
Solar Energy				
Solar thermal applications:				
Heating and cooling of buildings	600	1,000	1,000	1,000
Heating and cooling demonstration program	1,400	---	---	---
Subtotal, solar thermal applications	2,000	1,000	1,000	1,000
Photovoltaics	300	300	300	300
Wind energy	1,400	1,400	1,400	1,400
Ocean thermal	700	700	700	700
Solar thermal	3,000	3,000	3,000	3,000
Total, solar energy	7,400	6,400	6,400	6,400
Geothermal Energy				
Engineering research and development	700	900	900	900
Resource exploration and assessment	500	600	600	600
Hydrothermal technology applications	700	800	800	800
Advanced technology applications	500	600	600	600
Environmental control and institutional studies	100	100	100	100
Total, geothermal energy	2,500	3,000	3,000	3,000
Fuels from biomass	500	500	500	500
Fusion Energy				
Magnetic fusion	27,600	25,600	25,600	25,600
Electric energy systems	2,800	2,000	2,000	2,000
Energy storage	1,700	2,100	2,100	2,100
Light Water Reactors				
Nuclear fuel cycle	9,000	2,000	2,000	2,000
Waste management (civilian applications)	11,500	9,700	9,700	9,700
Light water reactor safety studies	800	500	500	500
Total, light water reactors	21,300	12,200	12,200	12,200
Liquid Metal Fast Breeder Reactor				
Base development program	29,950	25,181	25,181	25,181
Other Advanced Reactor Concepts				
Water-cooled breeder reactor	3,100	3,100	3,100	3,100
Gas-cooled thermal reactor	1,000	2,500	2,500	2,500
Gas-cooled fast breeder reactor	1,330	1,500	1,500	1,500
Total, other advanced reactor concepts	5,430	7,100	7,100	7,100
Space Nuclear Systems				
Technology development and special projects	1,280	900	900	900
Space applications	3,400	3,800	3,800	3,800
Total, space nuclear systems	4,680	4,700	4,700	4,700
Environmental Research and Development				
Overview and assessment	3,400	2,400	2,400	2,400
Biomedical and environment research	14,425	12,200	12,200	12,200
Total, environmental research and development	17,825	14,600	14,800	14,600

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
CAPITAL EQUIPMENT—BUDGET AUTHORITY—CONTINUED

(IN THOUSANDS OF DOLLARS)

	Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
Basic Energy Sciences				
Nuclear science	1,075	1,300	1,300	1,300
Materials sciences	5,400	5,900	5,900	5,900
Chemical sciences	2,700	3,300	3,300	3,300
Engineering, mathematical, and geosciences	900	800	800	800
Advanced energy products	—	200	200	200
Other capital equipment	2,000	1,700	1,700	1,700
Total, basic energy sciences	12,075	13,200	13,200	13,200
Total, energy research and technology development programs	133,760	116,581	116,781	116,581
URANIUM SUPPLY AND ENRICHMENT ACTIVITIES				
Uranium resource assessment	4,800	2,500	2,500	2,500
Isotope separation technology:				
U-235 process development	4,000	4,700	4,700	4,700
Advanced isotope separation technology	8,485	8,000	8,000	8,000
Total, isotope separation technology	12,485	12,700	12,700	12,700
Uranium enrichment activities	15,000	17,000	17,000	17,000
Less uranium enriching revenues	—	-29,700	-29,700	-29,700
Total, uranium supply and enrichment activities	32,285	2,500	2,500	2,500
GENERAL SCIENCE AND RESEARCH PROGRAMS				
High energy physics	42,000	41,200	41,200	41,200
Life sciences research and biomedical applications	1,000	1,100	1,100	1,100
Nuclear physics	6,725	7,500	7,500	7,500
Total, general science and research programs	49,725	49,800	49,800	49,800
ATOMIC ENERGY DEFENSE ACTIVITIES				
Weapons Activities				
Research and development	34,690	36,100	36,100	36,100
Testing of atomic weapons	17,400	17,900	17,900	17,900
Production and surveillance	18,000	24,000	24,000	24,000
Other capital equipment	8,910	8,400	8,400	8,400
Total, weapons activities	79,000	86,400	86,400	86,400
Special Nuclear Materials				
Production	27,089	30,200	30,200	30,200
Process development	1,929	1,800	1,800	1,800
Waste management (Defense)	6,982	8,000	8,000	8,000
Total, special nuclear materials	36,000	40,000	40,000	40,000
Inertial confinement fusion	13,200	8,200	8,200	8,200
Nuclear materials security and safeguards	2,794	3,000	3,000	3,000
Naval reactors development	15,150	22,000	22,000	22,000
Total, atomic energy defense activities	146,144	159,600	159,600	159,600

DEPARTMENT OF ENERGY—ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
CAPITAL EQUIPMENT—BUDGET AUTHORITY—CONTINUED

(IN THOUSANDS OF DOLLARS)

	Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
POLICY, MANAGEMENT AND SUPPORT				
Program management and support				
Institutional relations	755	800	800	800
Public awareness	200	100	100	100
Subtotal, policy and external relations	955	900	900	900
Decontamination and decommissioning	200	200	200	200
Subtotal, program management and support	1,155	1,100	1,100	1,100
Other capital equipment	3,150	5,000	3,500	5,000
Total, policy, management and support	4,305	6,100	4,600	6,100
Total, capital equipment - budget authority	366,219	334,581	333,281	334,581
Total, construction-budget authority	1,252,630	1,103,835	787,575	671,190
Total, plant and capital equipment	1,618,849	1,438,416	1,120,856	1,005,771

SUMMARY OF ENERGY, SCIENCE AND DEFENSE ACTIVITIES

The following table provides a summary of Energy, Science and Atomic Energy Defense Activities program totals, including Operating Expenses, Construction and Capital Equipment:

(IN THOUSANDS OF DOLLARS)

	Fiscal year 1978	Fiscal year 1979 budget estimate	House allowance	Committee recommendation
Energy research and technology development programs:				
Solar energy	315,500	405,200	473,700	413,200
Geothermal energy	106,200	139,700	155,700	142,200
Fuels from biomass	20,750	36,900	52,600	36,900
Hydroelectric power development	10,000	28,000	15,000	28,000
Fusion energy	231,500	334,000	357,700	351,900
Electric energy systems	39,500	40,000	42,000	40,000
Energy storage	50,200	58,000	59,000	58,000
Light water reactors	320,342	274,300	302,300	290,300
Liquid metal fast breeder reactor	442,755	367,367	576,967	547,867
Other advanced reactor concepts	105,265	152,300	122,300	134,300
Space nuclear systems	50,530	48,100	43,100	43,100
Environmental research and development	207,781	208,588	231,688	215,588
Basic energy sciences	181,799	211,500	204,000	210,000
Advanced technology and assessment	7,535	16,690	5,000	8,000
Total, energy research and technology development programs	2,069,657	2,320,645	2,641,055	2,539,355
Uranium supply and enrichment activities:				
Uranium resource assessment	64,285	85,200	69,000	75,200
Isotope separation technology	133,502	154,200	154,200	154,200
Uranium enrichment activites	901,752	1,310,600	1,230,600	1,189,600
Subtotal	1,099,539	1,550,000	1,453,800	1,419,000
Less uranium enrichment revenues	-965,820	-1,209,000	-1,309,000	-1,309,000
Total, uranium supply and enrichment activities	133,719	341,000	144,800	110,000
General science and research:				
High energy physics	229,950	294,700	307,700	294,700
Life science and biomedical applications	42,510	40,800	40,800	40,800
Nuclear physics	75,873	90,800	92,800	94,800
Total, general science and research	348,333	426,300	441,300	430,300
Atomic energy defense activities:				
Weapons activities	1,218,249	1,460,594	1,378,594	1,429,294
Special nuclear materials	456,866	852,900	719,400	714,400
Inertial confinement fusion	117,200	126,000	142,200	129,200
Nuclear materials security and safeguards	40,700	43,089	43,089	43,089
Intelligence and arms control	24,675	28,400	28,400	32,600
Naval reactors development	231,706	290,600	290,600	290,600
Total, atomic energy defense activities	2,089,396	2,801,583	2,602,283	2,639,183
Policy management and support:				
Salaries and expenses:				
Office of the Secretary	1,445	1,580	1,580	1,580
Departmental administration	56,405	60,860	57,260	57,260
Program administration	117,168	126,350	122,035	122,035
Other expenses	110,393	112,706	111,706	111,706
Policy and external relations	52,358	58,215	56,412	57,785
Other supporting services	95,620	159,845	107,532	96,087
Miscellaneous revenues	-100,720	-54,000	-112,900	-112,900
Total, policy management and support	332,669	465,556	343,625	333,553
Appropriation financing:				
Appropriation transfers	500	500	500	500
Unobligated balances brought forward	-129,800	-35,800	-187,270	-207,270
Total, net appropriation financing	-129,300	-35,300	-186,770	-206,770
Total, energy science and defense activities	6,097,104	6,319,784	5,986,293	5,845,621

I. Energy Research and Technology Development Programs

A. SOLAR ENERGY DEVELOPMENT

The fiscal year 1979 request for solar energy development includes several subprograms for technology development and demonstration.

The purpose of the solar technology development subprograms is to bring to market readiness systems for the production of clean fuels and the generation of electricity utilizing energy from the sun, wind, and ocean. Because all such systems ultimately derive their energy from the inexhaustible solar supply, economically viable solar systems are an attractive alternative to systems that depend upon exhaustible energy resources.

The purpose of the demonstration subprogram, in conjunction with the incentives and regulatory measures in the National Energy Act legislation, is to stimulate introduction of economically competitive, environmentally acceptable solar energy systems to meet a goal of 2.5 million solar installations by 1985.

Solar energy systems are believed to have the potential to become economically competitive in various applications during the next five to twenty years and could contribute significantly to the national energy supply in that time. Based on present momentum, Department of Energy data indicate that the solar impact in the year 2000 could be as much as 6 to 10 quadrillion BTU's, or 5 to 8 percent of the estimated national energy requirements.

SUMMARY OF SOLAR ENERGY DEVELOPMENT BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Heating and cooling:			
Research and development	$29,500,000	$33,100,000	$35,000,000
Demonstration program	64,400,000	41,000,000	51,000,000
Subtotal	93,900,000	74,100,000	86,000,000
Agriculture and industrial process heat	10,300,000	11,000,000	11,000,000
Technology utilization and support	9,000,000	19,100,000	14,100,000
Solar thermal applications	60,100,000	69,000,000	69,100,000
Photovoltaics	76,200,000	105,800,000	105,800,000
Wind energy	35,300,000	59,300,000	59,300,000
Ocean thermal	23,300,000	19,000,000	20,000,000
Total, operating expenses	308,100,000	357,300,000	365,300,000
Capital equipment	7,400,000	6,400,000	6,400,000
Construction projects	53,000,000	41,500,000	41,500,000
Total, capital acquisitions	60,400,000	47,900,000	47,900,000
Total, solar energy development	368,500,000	405,200,000	413,200,000

A brief description of the solar energy subprograms and the Committee recommendations follows:

(1) *Solar Heating and Cooling.*—The research and development program is being carried out to assist the emerging solar energy industry in developing the components, subsystems, systems, and information needed to provide cost effective solar heating and cooling technologies in new and existing residential and commercial buildings.

The heating and cooling demonstration program seeks to demonstrate the feasibility of solar heating and cooling in new and existing buildings by the end of 1979 as mandated in the National Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93–409).

The Committee recommendation will accelerate technology development directed at reducing the cost of solar systems to more competitive levels, particularly in cooling technology. The increase recommended for the heating and cooling demonstration program will allow for completion and monitoring of projects started in prior years and for limited initiation of new projects, particularly demonstrations of passive solar devices.

The Committee recommendation also provides funds for participation in a national exemplar project for construction of a higher education academic facility. This program will demonstrate a solar system for a building which will make the facility a cogenerator as an integral part of a generic integrated community energy system. This project will develop commercialization techniques which will apply advanced available proven technology for the Nation's universities and colleges. This facility will be conjoined to the national exemplar fluidized bed high sulfur coal project with its coal using integrated community energy system.

(2) *Agriculture and Industrial Process Heat.*—The objective of the agriculture and industrial process heating program is to stimulate the use of solar technologies as a replacement for and supplement to fossil fuels presently used in these areas. The Committee recommendation provides the full amount requested.

(3) *Technology Utilization and Support.*—This program supports all of the solar energy development programs in providing for environmental and resource assessment activities, for which $6,500,000 is recommended; and technology transfer activities, for which $3,000,000 is recommended. The objectives are to acquire and disseminate technical data, to conduct programmatic environmental impact assessments and to maintain a technical data base for solar energy. Also included is $4,600,000 for the Solar Satellite Power System concept evaluation program. A budget amendment requesting an additional $5,000,000 has been proposed by the Administration to establish a Solar Training and Education Program. The Committee included no funding for this new program as it has not been approved by the Senate authorizing committee.

(4) *Solar Thermal.*—The overall objective of solar thermal is to provide a technical base for the production of thermal and electric power in the mid-1980's to meet electric utility requirements for load-following or intermediate base for total energy systems for Federal installations, urban complexes, rural communities, and industrial parks.

The recommendation provides $17,000,000 for Large-Scale Systems and Applications, $16,200,000 of which is for the 10 megawatt central receiver utility power plant experiment in Barstow, California, scheduled to begin operation in 1981. The additional $800,000 is for "repowering," the use of solar central receivers as a substitute for conventional fuels to provide steam to existing steam boilers. Other program elements include advanced low cost heliostat designs,

$10,100,000; Total Energy Systems, with experiments at Shenandoah, Georgia and Fort Hood, Texas, $14,000,000; Small Power Systems, $14,000,000; and Advanced Studies and Technology, $14,000,000.

(5) *Photovoltaics Energy Conversion.*—The overall objective of the Photovoltaics Energy Conversion program is to develop low-cost, reliable, photovoltaic systems and to stimulate the creation of a viable industrial and commercial capability to produce and distribute these systems for widespread use in residential and commercial applications.

The Committee recommendation is comprised of Advanced Research and Development, $32,500,000, including $7,000,000 for construction of one silicon pilot plant and $6,000,000 for two automated pilot lines; Systems Analysis and Engineering, $3,900,000; Silicon Solar Array Technology Development, $27,000,000; Concentrator Technology Development, $5,900,000; Mission Analysis and Standards, $3,600,000; and a new program for Market Pull-Test Applications, $33,000,000. This new program is to procure photovoltaic arrays in a manner designed to result in long-run cost reductions; these arrays are for use by Federal agencies in life-cycle, cost-effective applications.

(6) *Wind Energy Conversion Systems.*—The objective of the Wind Energy Conversion Systems program is to accelerate the development of a reliable, economically viable energy system capable of rapid commercial implementation. In the technology development area, work will continue on the development and verification of technology to be used by industry and the investigation of potential methods of designing Wind Energy Conversion Systems for low-cost fabrication.

Included in the Committee's recommendation are $13,100,000 for development and technology improvement; $18,800,000 for farm and rural systems; $1,900,000 for small wind systems (kilowatt scale); $23,100,000 for large systems (megawatt scale); and $2,400,000 for large scale, multi-unit systems.

(7) *Ocean Thermal Energy Conversion.*—The objective of the Ocean Thermal Energy Conversion program is to develop, demonstrate, and stimulate the implementation of large-scale commercial floating power plants capable of economically converting ocean thermal energy into substantial quantities of usable electric energy or to provide for the manufacture of energy intensive products such as ammonia.

The Committee recommends an increase of $1,000,000 for evaluation of the tropic grazing pilot plant concept.

(8) *Construction Projects.*—The Department's request included $13,500,000 for conversion of the Hughes mining barge into an experimental facility, OTEC 1. This effort has been redesignated as a construction activity, project 79–1–m.

B. GEOTHERMAL ENERGY

Geothermal energy is the heat stored in the earth which is recoverable using current or near-current technology. Geothermal energy resources have been discovered in 33 States in the United States, and are believed to exist in other States where geothermal exploration or drilling has not been undertaken to date.

There are three principal types of geothermal energy resources. In increasing order of estimated magnitude, they are: convective hydrothermal; geopressured, including dissolved natural gas; and hot dry rock.

In addition to generating electricity, hot water and steam, geothermal resources may be used directly for residential and commercial building space heating and cooling, as industrial process heat and in agricultural applications. Many nonelectric geothermal applications have been successfully demonstrated in various countries. Low-to-moderate temperature hydrothermal resources suited to nonelectric applications are abundant and geographically widespread in the United States.

The overall purpose of the Geothermal Program is to stimulate commercial development, by private industry and local public power authorities, of geothermal resources in the United States. The program goal is to increase commercial utilization of geothermal energy which presently provides about .04 quadrillion BTU's per year, to between 4.0 and 9.0 quadrillion BTU's by the year 2000, which would constitute about 3 to 7 percent of estimated national energy supply requirements at that time.

SUMMARY OF GEOTHERMAL ENERGY BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Engineering research and development	$15,500,000	$21,600,000	$24,100,000
Resource exploration and assessment	17,600,000	29,400,000	32,400,000
Hydrothermal technology applications	28,000,000	27,200,000	31,200,000
Advanced technology applications	22,500,000	39,600,000	32,600,000
Utilization experiments	12,000,000	7,500,000	7,500,000
Environmental and institutional studies	8,100,000	11,400,000	11,400,000
Total, operating expenses	103,700,000	136,700,000	139,200,000
Capital equipment	2,500,000	3,000,000	3,000,000
Construction projects	0	0	0
Total, capital acquisitions	2,500,000	3,000,000	3,000,000
Total, geothermal energy	106,200,000	139,700,00	142,200,000

A brief description of the various subprograms along with Committee comments and recommendations follows:

(1) *Engineering Research and Development.*—The objective of the Engineering Research and Development Activity is to bring the technologies required for geothermal development to the point of readiness for practical application, thereby establishing the technical foundation for growth and development of a viable industrial capability.

The two major efforts in this activity are geothermal drilling technology for which $3,000,000 was requested in 1979, and utilization technology for which $18,600,000 was requested.

An increase of $2,500,000 is provided for additional effort in the drilling technology program, directed at reducing the cost of geothermal wells by 20 to 25 percent.

(2) *Resource Exploration and Assessment.*—This activity has three major objectives: (1) development of reservoir exploration and assessment technologies; (2) confirmation of reservoir potential; and (3) identification of new prospects.

The fiscal year 1979 request included $5,200,000 for exploration technology, $7,100,000 for reservoir assessment and $17,100,000 for reservoir confirmation.

The increase of $3,000,000 above the amount requested will permit the assessment of eight resource areas in fiscal year 1979 rather than six as proposed. It will also permit the development of improved

instrumentation and equipment to measure well parameters to facilitate drilling decisions without flowing the wells.

(3) *Hydrothermal Technology Applications.*—The major objectives of the Hydrothermal Technology Applications Activity are to achieve utilization of:

High-temperature, low salinity hydrothermal resources for electric power generation by 1982.

All types of hydrothermal resources for direct heat applications by 1982.

High-temperature, high salinity hydrothermal resources for electric power generation by 1984.

Moderate-temperature hydrothermal resources for electric power by 1987.

Major efforts under this activity include exploration of the liquid-dominated high-temperature resource, for which $8,200,000 is provided for in fiscal year 1979; the liquid-dominated moderate temperature resource and the low-to-moderate temperature resource for nonelectric applications, for which $19,000,000 is provided. High temperature resource applications (above 150°C) primarily involve the development of test facilities for energy conversion from high salinity fluids at Niland, California, and for moderate salinity fluids at East Mesa, California. Moderate-temperature resources projects (90° to 150°C) are centered on the energy recovery studies at Raft River, Idaho. Hydrothermal resource studies at volcanic sites include the test and evaluation of wellhead generators in Hawaii. Low-to-moderate temperature resource activities (50° to 150°C) are primarily engineering and economic studies of nonelectric applications leading to field application experiments of promising direct uses of geothermal heat.

The increase of $4,000,000 above the budget request is for additional construction funds for the Raft River 5 megawatt pilot plant.

(4) *Advanced Technology Applications.*—The objective of the Advanced Technology Applications Activity is to prove the technical feasibility for potential future geothermal systems. The major targets are the huge resources represented by the geopressured systems along the Gulf coast, which are believed to include large quantities of methane; the hot dry rock systems expected to be found over large areas of the Western States, and perhaps ultimately the widely distributed conductive heat of the earth's crust (normal gradient resources).

Utilization of geopressured resources, hot dry rock, heat from the natural decay of radioactive rock in the earth's crust, and the normal gradient resources have not yet reached the stage of demonstrated technological feasibility. Differing degrees of fundamental and applied research, of field testing and experiments, and of pilot and demonstration projects are required to bring use of such resources to the point of economic viability and environmental acceptability.

The funding level recommended by the Committee is the full amount approved by the Senate authorizing committee. It includes $1,900,000 to expand hot dry rock resource exploration and $1,100,000 for a hot dry rock utilization experiment at Los Alamos Scientific Laboratory.

(5) *Utilization Experiments.*—The objective of this activity is to demonstrate to the domestic geothermal industry and to the public that the generation of electric power from geothermal resources is technically feasible, economically sound, and environmentally accept-

able. The specific goals associated with work planned for fiscal year 1979 are:

To achieve operation by the end of fiscal year 1982 of a commercial-scale plant capable of generating electricity from a liquid-dominated, low-to-moderate salinity geothermal reservoir.

To demonstrate with confidence by 1983 that liquid-dominated low-to-moderate salinity geothermal reservoirs can provide an adequate supply of hot water for the extended operation of such a plant.

To demonstrate by 1985 the acceptability of environmental impacts associated with the construction and operation of such a plant.

To demonstrate by 1985 the production of electric power from such a plant at a commercially competitive cost.

Due to weaknesses in the proposed management structure and major engineering uncertainties in the proposal submitted for the binary cycle system 50 megawatt geothermal demonstraiton project, the Committee has deferred this project without prejudice until these difficulties are substantially resolved. Completion and operation of the first binary cycle system pilot plant (5 megawatt) at Raft River in fiscal year 1979 should provide additional information needed to fully evaluate this project.

(6) *Environmental Control and Institutional Studies.*—The objectives of this subprogram are to determine and resolve undesirable environmental effects of large-scale geothermal energy utilization and to encourage geothermal technology through information dissemination.

C. FUELS FROM BIOMASS

Biomass materials represent a significant energy source that still remains largely untapped. The overall objective of the activity is to develop the capability for converting renewable biomass resources into clean fuels, petrochemical substitutes, and other energy-intensive products that can supplement similar products made from conventional fossil fuels. The activity offers a significant potential for reducing national dependence on fossil fuels through the conversion of a renewable energy source to useful liquid and gaseous fuels, petrochemical substitutes, stream, and electricity.

Biomass sources being considered are forest and agricultural residues, animal manures, and plants grown for their energy content either on land (terrestrial) or in water (aquatic). Research and development is being conducted on thermochemical conversion processes, including gasification, liquefaction, and direct combustion and on biochemical conversion, including fermentation and anaerobic digestion. Research efforts on biophotolysis and photoelectrolysis are funded as long-term conversion possibilities.

The energy potential of biomass residues and plant forms is estimated as follows:

Source	Quadrillion Btu's per year	Cost per thousand Btu
Logging residue	1.7	$1.35–$3.00
Standing residue	1.7	.75– 1.30
Mill residue	.5	.35– 1.50
Plant forms	4.5	1.00– 1.80
Total	8.0	

Thus, Biomass conceivably could provide about 6 percent of energy needs by the year 2000 if economical and institutionally acceptable uses of Biomass can be developed.

SUMMARY OF FUELS FROM BIOMASS BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Anaerobic digestion	$1,458,000	$4,000,000	$2,000,000
Fermentation	3,415,000	5,500,000	5,500,000
Thermochemical conversion	6,629,000	17,900,000	16,900,000
Production and collection	7,089,000	7,500,000	10,500,000
Support and other	1,659,000	1,500,000	1,500,000
Total, operating expenses	20,250,000	36,400,000	36,400,000
Capital equipment	500,000	500,000	500,000
Total, fuels from biomass	20,750,000	36,900,000	36,900,000

The Committee recommends the following changes from the amended budget request: decreases of $2,000,000 for anaerobic digestion and $1,000,000 for thermochemical conversion in accord with the Senate authorizing legislation; a decrease of $1,000,000 for fermentation; and an increase of $4,000,000 for production and collection. Within the funds available for production and collection, $2,500,000 is recommended for the production and collection of marine biomass.

D. HYDROELECTRIC POWER DEVELOPMENT

In New England alone, there are more than 2,600 existing dams and reservoirs without power generating facilities. Facilities could be installed at many of these sites, in some cases for less than $700 per kilowatt. The capacity of a facility at an existing reservoir is determined by the availability of head and flow. It usually varies from 500 kilowatts to 15 megawatts, but could be several hundred megawatts in some instances.

Data compiled by the Federal Power Commission (FPC) indicate that:

> As of January 1976, hydroelectric power capacity of 57,000 megawatts has been developed nationally at large sites, and an additional 8,200 megawatts is under construction.
>
> The undeveloped capacity at sites with capacities of 5 megawatts or greater is estimated at 105,000 megawatts.

Statistical data indicate that the undeveloped capacity at small sites (less than 5 megawatts) is estimated at 200,000 megawatts. Thus, the undeveloped capacity associated with low-head hydroelectric power sites represents a significant energy resource.

Moreover, retrofitting or constructing new hydropower facilities at existing dams with relatively small reservoirs would have minimal environmental impact.

The program goal is to increase the commercial utilization of low-head hydroelectric energy on a regular schedule. The time scale is as follows:

> Near term: 1,500 megawatts by the year 1985.
> Mid-term: 20,000 megawatts by the year 2000.
> Long term: 50,000 megawatts by the year 2020.

SUMMARY OF HYDROELECTRIC POWER DEVELOPMENT BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Low-head hydroelectric development	$10,000,000	$18,000,000	$18,000,000
Feasibility studies loans	0	10,000,000	10,000,000
Total, hydroelectric power development	10,000,000	28,000,000	28,000,000

A brief description of the two subprograms follows:

(1) *Low-Head Hydroelectric Development.*—The objective of the Low-Head Hydroelectric Development Program is to accelerate the redevelopment of facilities at existing dams by retrofitting or constructing new hydropower facilities. The work is being carried out through public and private sectors with DOE providing appropriate assistance. Low-head hydroelectric technology is well developed and extensively used elsewhere, but until recently, there has been little economic incentive for its use in the United States.

(2) *Feasibility Studies Loans.*—The Feasibility Studies Loan Program is to provide loans to present and potential dam owners for feasibility studies to determine the technical, economic, and environmental merit of hydroelectric retrofit projects. Such loans may be forgiven if the Secretary determines that the results of the feasibility study are unfavorable.

E. FUSION ENERGY

Fusion energy development is directed toward establishing the technical, engineering, and commercial feasibility of obtaining a virtually unlimited energy source from the controlled thermonuclear fusion process for long-term (beyond the year 2000) energy needs. Two primary technical approaches are being pursued: magnetic confinement whereby the intense heat of the plasma is confined by powerful magnets; and inertial confinement whereby the fusion process is created through implosion of pellets by powerful lasers or electron beams.

At this point in time, neither fusion process has been shown to be technically feasible; that is, capable of a net energy gain. However, the potential promise of a clean, inexhaustible source of energy from the fusion process is of sufficient importance to warrant an aggressive development program. In this regard, recent progress in the magnetic fusion process is said to provide tangible assurance that scientific feasibility of the fusion process can be attained.

The inertial confinement process has been developed principally in connection with the atomic weapons program, and its near-term objectives are related chiefly to national security objectives. Hence, it is being funded and supported as an atomic energy defense program. At an appropriate time, after scientific feasibility has been shown, the program goals will be redirected more to civilian energy applications.

The Inertial Confinement Fusion Program is discussed under Atomic Energy Defense Activities.

SUMMARY OF MAGNETIC FUSION ENERGY BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Confinement systems	$93,620,000	$100,100,000	$108,100,000
Development and technology	46,040,000	54,000,000	54,000,000
Applied plasma physics	45,140,000	53,100,000	56,100,000
Reactor projects	19,100,000	17,800,000	17,800,000
Total operating expenses	203,900,000	225,000,000	236,000,000
Capital equipment	27,600,000	25,600,000	25,600,000
Construction projects	93,850,000	83,400,000	90,300,000
Total capital acquisitions	121,450,000	109,000,000	115,900,000
Total	325,350,000	334,000,000	351,900,000

The Committee recommendation provides for an increase of $8,000,000 in operating expenses under the confinement systems subprogram for tests and measurements in connection with two experimental projects just being completed: the Doublet III experiment, $4,000,000, and the Poloidal Divertor Experiment (PDX) $4,000,000. An increase of $3,000,000 is provided for the applied plasma physics subprogram for evaluation of promising alternatives to the Tokamak and mirror systems. At least $1,200,000 of this increase is for systems study at the Los Alamos Scientific Laboratory.

In construction, $6,900,000 is added to Project 78–3–b, Fusion Materials Irradiation Facility, HEDL, Washington, to continue work on this important facility, in line with the realignment of the 14 MEV testing facility program and discontinuance of Project 76–5–b.

The Committee recommends that within the total provided, the Department should pursue an aggressive evaluation of the small fusion system concepts to determine the potential of such alternative concepts to the mainline fusion machines presently pursued. The Committee requests a report on the Department's present evaluation and proposed program for further assessment of such systems not later than December 31, 1978.

F. ELECTRIC ENERGY SYSTEMS

The objective of the Electric Energy Systems program is to conduct the research, development, and demonstration activities required for integration of new central or dispersed source delivery and use technologies into more reliable, lower cost and environmentally acceptable electric energy systems. The program thus supports all of the energy technology development program applications to electric energy.

SUMMARY OF ELECTRIC ENERGY SYSTEMS BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Power delivery	$25,100,000	$22,600,000	$22,600,000
Power supply	4,100,000	6,900,000	6,900,000
Systems management	7,500,000	8,500,000	8,500,000
Total, operating expenses	36,700,000	38,000,000	38,000,000
Capital equipment	2,800,000	2,000,000	2,000,000
Construction projects	800,000	0	0
Total, capital acquisitions	3,600,000	2,000,000	2,000,000
Total, electric energy systems	40,300,000	40,000,000	40,000,000

G. ENERGY STORAGE SYSTEMS

The objective of the Energy Storage Systems program is to develop reliable and inexpensive energy storage systems for use in transportation, building heating and cooling, industrial processes, and utility applications. These systems are intended to:

Increase the substitution of coal and nuclear energy for petroleum and natural gas in transportation and utility systems.

Enable solar, wind, and other intermittent energy sources to service continuous energy loads with reduced need for conventionally fueled back-up systems.

Allow the use of nonmobile energy sources, such as coal or nuclear generated electricity, in mobile applications, especially vehicles.

Enable electric utilities to use their facilities more efficiently, thereby retarding current rates of growth in the cost of electricity.

Allow the utilization of energy otherwise lost as waste heat.

Energy storage technologies are being developed for transportation, building heating and cooling, industrial processes, and other end uses as well as for utility application. The resulting fuel substitution will reduce the need to import expensive oil and can help reduce pollution.

SUMMARY OF ENERGY STORAGE SYSTEMS BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Battery systems	$16,320,000	$18,500,000	$18,500,000
Chemical and thermal storage	12,480,000	15,175,000	15,175,000
Mechanical and magnetic storage	6,150,000	8,800,000	8,800,000
Technical and economic analysis	4,150,000	3,450,000	3,450,000
Utility applications	9,400,000	9,975,000	9,975,000
Total, operating expenses	48,500,000	55,900,000	55,900,000
Capital equipment	1,700,000	2,100,000	2,100,000
Total, energy storage	50,200,000	58,000,000	58,000,000

H. LIGHT WATER REACTORS

In order to facilitate consideration of the Department's programs relating to reactors currently used for power generation, the Committee has aggregated these programs under the heading Light Water Reactors.

There presently are 68 operating nuclear power stations in the U.S. generating 49,000 megawatts of electric power, providing about 12 percent of total U.S. electricity generation. An additional 86 reactors are presently under construction. Nuclear generating capacity is expected to provide about 20 percent of total electricity generation in the mid-1980's. When all of the approximately 200 nuclear powerplants presently operating, on order or planned are completed, light water reactors will be providing about 195,000 megawatts in the early 1990's, about 30 percent of U.S. electricity generation.

Despite an impressive operating and safety record, there are significant technical issues that must be addressed in an aggressive manner if nuclear energy is to play its expected role in providing economical base load electrical generating capacity in this country. Chief among these are resolution of appropriate reprocessing-recycle processes for extending nuclear fuel supplies; safe storage of spent fuels and nuclear wastes; and improvement of on-line availability.

SUMMARY OF LIGHT WATER REACTORS BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
LWR technology	$18, 900, 000	$13, 900, 000	$13, 900, 000
Nuclear fuel cycle	92, 400, 000	48, 850, 000	64, 850, 000
Waste management (civilian applications)	158, 500, 000	152, 100, 000	152, 100, 000
Light water reactor safety studies	24, 342, 000	6, 500, 000	6, 500, 000
Domestic spent fuel storage	0	3, 000, 000	3, 000, 000
International spent fuel storage	5, 000, 000	3, 000, 000	3, 000, 000
Total, operating expenses	299, 042, 000	227, 350, 000	243, 350, 000
Capital equipment	21, 300, 000	12, 200, 000	12, 200, 000
Construction projects	16, 482, 000	34, 750, 000	34, 750, 000
Total, capital acquisitions	37, 782, 000	46, 950, 000	46, 950, 000
Total, light water reactors	336, 824, 000	274, 300, 000	290, 300, 000

A brief description of the various subprograms and Committee's recommendations follow:

(1) *Light Water Reactor Technology.*—The objectives of the Light Water Reactor Technology subprogram are to assist industry to achieve an improvement in the productivity of light water reactors and to provide assessments for enhancing their safety. Each day that a 1,000 megawatt nuclear reactor is not operational, the increased cost to consumers is approximately $500,000. It is believed that improvements in productivity in the range of five to ten percentage points are attainable through the development and utilization of improved technology in carefully selected areas.

The Committee recommendation is the same as the amended budget request.

(2) *Nuclear Fuel Cycle.*—The overall objective of the nuclear fuel cycle subprogram is to develop technologies and design bases for processing spent reactor fuels and reuse of the recovered nuclear materials and to perform work to improve the safeguards, operability, and maintainability of fuel processing systems integrating this technology. The goal is to develop safe, protected processes that will maximize the utilization of nuclear fuel resources and thus maximize nuclear fission power's contribution to meeting the nation's energy needs.

The request included $16,000,000 for Alternate Fuel Cycle Technologies; $16,000,000 for Advanced Fuel Recycle Research and Development; and $16,850,000 for Thorium Fuel Cycle Technology.

The Committee recommendation provides an increase of $16,000,000 to be used for operating expenses for the Barnwell Nuclear Fuels Plant. The Department of Energy is directed, out of its safeguards budget, to provide safeguards hardware and equipment necessary to continue the fiscal year 1978 program at the Barnwell Nuclear Fuel Plant through fiscal year 1979 and expand that program in safeguards equipment testing and verification. The levels of Department fo Energy support for its effort should be $2.5 million.

The Committee expects the additional year of Federal support provided in this bill for the Barnwell Nuclear Fuels Plant to be the final year of such support and directs that such support be made conditional upon the owners' explicit understanding that such support in no way commits the Federal Government to nor precludes it from future acquisition of the facility nor establishes any Federal liability for the facility.

The Committee also recommends $8,500,000 for continued high temperature gas reactor fuel cycle research and development.

(3) *Waste Management.*—The objective of the commercial waste management program is to research, develop, and implement the technology necessary for the long-term management of nuclear wastes. Included in the request was $125,500,000 for Terminal Storage Research and Development; $21,100,000 for Waste Immobilization Research and Development; and $5,500,000 for Supporting Studies and Evaluations.

The recommendation provides the full amount of the 1979 request.

(4) *Light Water Reactor Safety Studies.*—The primary responsibility for nuclear safety research rests with the Nuclear Regulatory Commission (NRC). However, in accordance with Section 205 of the Energy Reorganization Act of 1974, the Department provides research services and facilities to the NRC for the purpose of conducting NRC sponsored safety research. These funds are to be utilized principally in the Loss of Fluid Test (LOFT) subprogram. Work on the LOFT facility is proceeding, and facility acceptance by NRC is expected in fiscal year 1979.

The 1979 request reflects a transfer of LOFT funding responsibility to NRC on April 1, 1979.

(5) *Domestic Spent Fuel Storage.*—This effort, new in fiscal year 1979, is to assist in identifying alternatives and timing for interim spent fuel storage so as to avoid restrictions on reactor operation pending resolution of reprocessing and final storage questions. The Committee recommendation is the same as the request.

(6) *International Spent Fuel Storage.*—This program seeks to reduce pressures on foreign countries to reprocess spent fuel. The funds provided are for studies and assessments of means for providing interim storage of spent fuel from foreign nuclear power plants.

COMMITTEE COMMENTS

The Committee's recommendations provide an increase of $16,000,000 over the request, reflecting the strongly held belief that the Administration must move more aggressively to establish firm programs for nuclear fuel cycle, waste management, and spent fuel storage activities in fiscal year 1979 to ease the growing and potential constraints on the development and maintenance of nuclear energy production in the United States.

The Committee considers that an effective program must reflect the Administration's commitment to assist utilities in obtaining adequate storage for spent fuels as part of its policy to indefinitely defer spent fuel reprocessing.

There is growing concern among public and private utilities that the government will not establish a useful interim spent fuel storage option in time to help them manage their storage problems and avoid a loss of operating flexibility.

A recent survey of nuclear plants across the country reveals that utilities are counting on the Administration to provide a viable spent fuel storage option. Both public and private utilities are concerned over the possibility of operating delays and the high costs of expanding storage facilities at reactor sites (if they are allowed to do so) or financing off-site storage.

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According to the survey, utilities need assistance to store 900 metric tons of spent fuel by the end of 1982, and an additional 800 metric tons by 1983. This total of 1,700 tons amounts to nearly two-fifths of the 5,000 ton capacity proposed for government assistance in an above-ground water cooled facility by 1982.

Department witnesses testified that adequate funds are available in the nuclear fuel cycle program to begin a facility design in fiscal year 1979. The Committee understands that the design of a spent fuel storage facility must begin in fiscal year 1979 to avoid delaying an operating date beyond 1983, and possibly beyond 1984. Such a delay may prove intolerable for utilities operating reactors without full core reserves by that time unless spent fuel storage facilities are provided; it threatens a further loss of operating flexibility and courts the prospect of nuclear plant shutdowns with serious economic results.

The Committee expects the Administration to assure utilities that storage is to be accomplished on an interim basis with adequate retrievability. The Committee suggests a thorough reexamination of the potential for government leased or private storage facilities to help utilities experiencing immediate spent fuel storage problems, such as the Dairyland Cooperative at LaCrosse, Wisconsin, and Portland General Electric, reactors with spent fuel that must be moved within the next three years.

The Administration should also closely examine the need for shipping casks to ship spent fuel during the next decade, and consider ways to encourage the development of shipping cask industry in time to implement an interim spent fuel transportation policy.

The Committee urges the Administration to establish storage capabilities at the earliest possible time so utilities can store spent commercial fuel on an interim basis. In addition, a realistic program for the ultimate disposal of radioactive wastes must be vigorously pursued.

I. BREEDER REACTOR PROGRAM

The capability of the Nation to draw on nuclear energy to meet the electric energy and other energy requirements toward the end of this century and beyond will depend on having available a proven, environmentally safe commercial breeder system that can effectively use our total uranium or thorium resources. The ability to use these resources in a breeder system would provide a source of domestic energy that would last for several centuries.

Other nations are moving ahead aggressively in the development of the liquid metal fast breeder reactor technology. Britain, France, and the Soviet Union are already operating demonstration plants in the 250 megawatt range and are proceeding to design commercial-sized plants. France intends to have its first commercial-sized demonstration plant operating by 1983. Japan, Italy, and West Germany have aggressive programs. Currently there are eight LMFBR's in operation abroad.

In contrast, the U.S. program is being slowed and delayed. Under Administration proposals, the first LMFBR demonstration plant, still an intermediate size reactor not of commercial scale, would not be operable before 1992, if a decision to proceed with such a plant is made following the 30-month study now proposed. Thus, a commercial demonstration of a full-sized plant, the kind France is building now, in all probability could not be completed until the turn of the century.

The Committee is concerned and disturbed by the Administration's decision to stretch out the breeder program and delay a demonstration which is needed to establish whether breeder reactors can be counted on to meet growing energy needs.

SUMMARY OF BREEDER REACTOR BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Advanced technology demonstration project	0	$15,000,000	$15,000,000
Breeder reactor demonstration project	$80,000,000	13,400,000	172,400,000
Base development program	332,805,000	251,301,000	272,801,000
Total, operating expenses	412,805,000	279,701,000	460,201,000
Capital equipment	29,950,000	25,181,000	25,181,000
Construction projects	121,305,000	62,485,000	62,485,000
Total, capital acquisitions	151,255,000	87,666,000	87,666,000
Total, breeder reactor	564,060,000	367,367,000	547,867,000

A brief discussion of the subprogram activities and Committee recommendations follows:

(1) *Advanced Technology Demonstration Project.*—This project is to carry out a study to redirect and reorient the Nation's breeder program by evaluating designs for a larger advanced fission facility.

If the Secretary of the Department of Energy terminates the Clinch River Breeder Reactor project, an additional $40,000,000 is to be utilized for this subprogram from within the funds provided for the breeder reactor demonstration project subprogram.

(2) *Breeder Reactor Demonstration Project.*—As was the case last year, the Congress has not resolved the status of the Clinch River Breeder Reactor project which the Administration has proposed to terminate. The Committee continues to be a strong supporter of a demonstration breeder project in view of the need to determine at an early date the licensing, technical, and economic issues that must be resolved in order to establish a viable breeder reactor option for the Nation. Accordingly, the Committee has provided $172,400,000 for the breeder reactor demonstration work approved by Congress in authorizing legislation.

(3) *Base Program Development Activities.*—The Department's request of $251,301,000 includes $118,474,000 for Breeder Technology Development and $66,628,000 for test facilities. The $118,474,000 includes $32,350,000 for Safety; $32,330,000 for Engineered Systems and Components; $6,950,000 for Physics; $7,105,000 for Materials and Chemistry; $29,197,000 for Fuels development; and $10,542,000 for core design, components, and fuel shipment technology. These levels reflect a sharp cutback in program levels over 1978 activities.

The Committee recommends an additional $21,500,000 to maintain program capabilities in technology development and test facilities needed to scale to the larger components and systems designs that will be needed for commercial-sized reactor systems.

In addition, if the Secretary of Energy terminates the Clinch River Breeder Reactor project, $39,000,000 from within the funds provided in the breeder reactor demonstration project subprogram are to be made available for additional base program development activities.

(4) *Capital Acquisitions.*—The Committee has agreed to the budget request for capital equipment and construction projects. However, if

the Secretary of the Department of Energy terminates the Clinch River Breeder Reactor project, the following amounts from within the funds provided in the breeder reactor demonstration project subprogram are to be made available for plant and capital equipment acquisitions:

Project 78–6–c: Safety Research Experiment Facility, Idaho National Engineering Laboratory, +$30,000,000.

Project 78–6–f: Fuels and Materials Examination Facility, Richland Washington, +$20,000,000.

Project 77–4–c: High Performance Fuel Laboratory, Richland, Washington, +$20,000,000.

Capital equipment: +$10,000,000.

J. OTHER ADVANCED REACTOR CONCEPTS

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Water-cooled breeder reactor	$38,600,000	$50,900,000	$50,900,000
Gas-cooled thermal reactor	31,000,000	28,500,000	44,500,000
Gas-cooled fast reactor	14,670,000	30,500,000	24,500,000
Nuclear energy assessments	15,565,000	6,300,000	10,300,000
Alternate advanced reactor systems	0	20,000,000	8,000,000
Total, operating expenses	99,835,000	136,200,000	138,200,000
Capital equipment	5,430,000	7,100,000	7,100,000
Construction projects	0	9,000,000	9,000,000
Total, capital acquisitions	5,430,000	16,100,000	16,100,000
Total, other advanced reactor concepts	105,265,000	152,300,000	154,300,000

A brief description of the various subprograms along with recommended changes to the budget request follow:

(1) *Water-Cooled Breeder Reactor.*—The objective of this program is to perform research and development to advance pressurized water reactor technology, to confirm that breeding can be achieved in existing and future light water reactors using the thorium/uranium-235 fuel system, and to assist U.S. industry in evaluating and applying the light water breeder reactor concept.

(2) *Gas-Cooled Thermal Reactor.*—The gas-cooled thermal reactor subprogram is directed toward capitalizing on the unique high temperature capabilities of helium-cooled, graphite-moderated thermal reactors. This technology could be used for an advanced converter reactor with a thorium fuel cycle or for supplying high-temperature process heat for industry.

The Committee recommendation provides an increase of $16,000,000 for increased research and development on the high temperature gas reactor (HTGR) and for design work on a commercial sized gas-cooled thermal reactor in cooperation with a consortia of utilities and vendors.

(3) *Gas-Cooled Fast Reactor.*—The objective of this subprogram is to develop the gas-cooled fast reactor as a viable long-term nuclear power option which would offer benefits similar to the liquid metal fast breeder reactor, but which could utilize a non-plutonium fuel cycle.

The Committee recommends a decrease of $6,000,000 from the budget request for this subprogram, as provided in the Senate authorizing legislation.

(4) *Nuclear Energy Assessments.*—The nuclear energy assessments subprogram provides for the conduct of conceptual design and appli-

cations studies and other activities for assessing nuclear energy concepts. Included are process cost benefit studies; fuel cycle economic evaluations; investigations of the applicability of nuclear power to meet various energy needs, such as process heat; and assessment of technologies for improving dry and wet/dry cooling towers.

The Committee has adjusted the funding for nuclear energy assessments to include $4,000,000 for NASAP studies requested in the Advanced Technology and Assessment Program. The Committee considers that the NASAP funding should be contained in one account rather than dispersed among several programs and should be managed as an integrated effort.

(5) *Alternate Advanced Reactor Systems.*—The objective of this subprogram is to develop uranium efficient reactor and fuel systems which the Nonproliferation Alternative Systems Assessment Program (NASAP) has identified as having high proliferation resistance potential, which are not being developed in existing department programs and which could be deployed with low development risk by the year 2000.

The Committee recommends a decrease of $12,000,000 from the budget request for this subprogram, as provided in the Senate authorizing legislation.

K. SPACE NUCLEAR SYSTEMS

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Technology development and special projects	$14,842,000	$4,000,000	$4,000,000
Space applications	31,008,000	39,400,000	34,400,000
Total, operating expenses	45,850,000	43,400,000	38,400,000
Capital equipment	4,680,000	4,700,000	4,700,000
Total, space nuclear systems	50,530,000	48,100,000	43,100,000

The Committee is a strong supporter of the space nuclear systems program and is proud of its accomplishments in providing reliable electric power supplies for space missions. However, within the space applications program, $17,881,000 is requested for flight systems development, compared to $7,979,000 provided in 1978 and $2,275,000 provided in 1977. While aware of the enthusiasm for undertaking new space applications and cognizant of past accomplishments, the Committee believes this effort can be adequately supported with an allowance of $12,881,000 which is a 50-percent increase over the fiscal year 1978 level.

L. ENVIRONMENTAL RESEARCH AND DEVELOPMENT

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Overview and assessment	$48,010,000	$48,650,000	$48,650,000
Biomedical and environmental research	141,946,000	135,338,000	142,338,000
Total, operating expenses	189,956,000	183,988,000	190,988,000
Capital equipment	17,825,000	14,600,000	14,600,000
Construction projects	10,010,000	10,000,000	10,000,000
Total, capital acquisitions	27,835,000	24,600,000	24,600,000
Total, environmental research and development	217,791,000	208,588,000	215,588,000

(*1*) *Overview and Assessment.*—The objective of the overview and assessment subprogram is to insure that DOE places proper emphasis on environmental, health, and safety considerations in formulating and implementing energy technology decisions, plans, and programs. This includes broad assessments of energy technology alternatives. The program also assures that all DOE environmental impact statements and supporting documents are accurate, complete, and consistent. Safety studies are performed for the development of operational guidelines.

(*2*) *Biomedical and Environmental Research.*—The primary objectives of this subprogram are to conduct research needed to determine adverse effects associated with energy technology development, to provide to other program offices the information and cooperation needed to insure environmental acceptability during development and commercialization phases, and to provide research data required for estimates of the environmental risks and benefits involved in development of energy resources and production technologies.

The Committee recommends an increase of $7,000,000 for studies of health effects from extra-high-voltage transmission lines, an expanded study of low-level radiation exposures, and basic research into effects of increased use of coal combustion and conversion processes.

M. BASIC ENERGY SCIENECES

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Nuclear science	$26,063,000	$28,400,000	$28,400,000
Materials sciences	65,709,000	72,000,000	72,000,000
Chemical sciences	43,285,000	48,200,000	48,200,000
Engineering, mathematical, and geosciences	11,480,000	23,200,000	21,700,000
Advanced energy projects	3,187,000	3,800,000	3,800,000
Total, operating expenses	149,724,000	175,600,000	174,100,000
Capital equipment	12,075,000	13,200,000	13,200,000
Construction projects	15,560,000	22,700,000	22,700,000
Total, capital acquisitions	27,635,000	35,900,000	35,900,000
Total, basic energy sciences	177,359,000	211,500,000	210,000,000

The fiscal year 1979 request provided for an overall increase of $34,141,000, about 20 percent, over 1978 levels for basic energy sciences, to expand materials, chemistry, applied mathematics, and geosciences programs, and to initiate a new program in engineering science.

The Committee recommends a decrease of $1,500,000 in the engineering, mathematical and geosciences activity.

N. ADVANCED TECHNOLOGY AND ASSESSMENT

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses		$16,690,000	$8,000,000

The Advanced Technology and Assessment program is a new activity which the Department has proposed to initiate through a reprograming of fiscal year 1978 funds. The purpose of this program is

to identify and support promising novel and innovative research and development that does not fit within other Department programs and to conduct independent technical assessments of new technologies.

The Committee's recommended reduction of $4,690,000 reflects its intention to insure that this activity does not duplicate technology studies being carried out in other programs, specifically, environmental research, basic energy sciences, general science and research programs, policy and program analysis, and general systems studies. Funding for the NASAP studies requested in this program has been provided in the nuclear energy assessments program.

II. URANIUM SUPPLY AND ENRICHMENT PROGRAMS

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Uranium resource assessment	$59,485,000	$81,200,000	$71,200,000
Isotope separation technology:			
U-235 process development	77,400,000	72,300,000	72,300,000
Advanced isotope separation technology	43,617,000	46,200,000	46,200,000
Subtotal	121,017,000	118,500,000	118,500,000
Uranium enrichment activities	886,752,000	904,100,000	904,100,000
Total, operating expenses	1,067,254,000	1,103,800,000	1,093,800,000
Capital equipment	32,285,000	32,200,000	32,200,000
Construction projects	454,133,000	414,000,000	293,000,000
Total, capital acquisitions	486,418,000	446,200,000	325,000,000
Total, operating, plant, and equipment	1,553,672,000	1,550,000,000	1,418,800,000
Less, uranium enriching revenues	965,820,000	1,209,000,000	1,309,000,000
Total, uranium supply and enrichment activities	587,852,000	341,000,000	109,800,000

A brief description of the various programs and committee recommendations follows:

(1) *Uranium Resources Assessment.*—The objectives of the uranium resources assessment program are to assess U.S. uranium and thorium reserves to improve reliability of current resource estimates and to identify favorable areas for industry exploration. Goals are to provide a preliminary report on priority areas by 1981 and a comprehensive final report in 1984.

The Department's request would provide a substantial increase over 1978 levels in order to accelerate all aspects of the program. From the testimony of departmental witnesses, the Committee sees little justification for the substantial program acceleration proposed by the Department. According to the testimony, light water reactors have been delayed in licensing and construction such that the U.S. requirement for uranium can be met from known and probable reserves for new construction through at least the turn of the century. Existing supplies could be extended 30 to 35 percent through reprocessing and recovery of unburned uranium and plutonium. Tails stripping, through advanced isotope separation technologies, could add another 25 to 30 percent to fuel availability. Availability of a viable breeder reactor, for which the country has already invested several billion dollars, would in effect remove any uncertainty from nuclear fuel supply. The testimony was that the United States already has a better knowledge of uranium reserves than any other country and the likelihood is that the reserves should approach the upper end of the estimating range.

The Committee recommendation of $71,200,000 continues an aggressive program, but at a pace more consistent with fuel needs considering current projections of requirements.

(2) *Isotope Separation Technology.*—The Committee recommendation of $118,500,000, the amount requested, continues process development activities associated with the gaseous diffusion technology, centrifuge technology, and three advanced separation technology programs.

The sense of the Committee is that during fiscal year 1979, the Department should select one of the three advanced processes for demonstration and concentrate efforts toward determining the viability of that process for tails stripping or future enrichment capacity. With two demonstrated processes, and two advanced processes demonstrated in laboratory scale, the need for continued expenditures of over $100,000,000 annually for isotope separation technology appears marginal in relation to competing requirements for appropriations.

(3) *Uranium Enrichment Activities.*—The recommendation of $904,000,000 for operating expenses is the same as the amount requested, which, because of anticipated power cost increases, will result in a drop in separative work production below 1978 levels. The Committee notes with concern that, at the requested level:

> The enriching plants will be operated well below their separative work capacity, resulting in higher costs for both U.S. and foreign customers.
>
> The delay in nuclear power plant construction in this country has created a larger-than-anticipated inventory of preproduced fuel.
>
> The order book for new customers, principally from overseas customers whose purchases would help trade balances, has been closed. As a result, foreign customers are turning to other sources of supply.

(4) *Construction Projects.*—The allowance for construction projects provides $135,000,000 for project 76–8–g, Enriched Uranium Production Facilities, Portsmouth, Ohio. Together with amounts previously appropriated, this will provide a total of $464,995,000 for the facility. The Committee strongly supports this needed addition and believes the Department should proceed expeditiously with its construction. In accord with the Senate authorizing legislation, the Committee recommendation also provides for a reduction of $1,000,000 for project 77–9–a, Expansion of Feed Vaporization and Sampling Facilities, Gaseous Diffusion Plants.

(5) *Uranium Enriching Revenues.*—The fiscal year 1979 request included revenues estimated at $1,209,000,000 from enriching services and a legislative proposal to increase these revenues by $163,000,000 for the so-called "fair value" of these services. The proposals would include provisions in the price for interest on Government-owned feed materials being converted in the preproduced stockpile, a factor for taxes and insurance and a factor for government management, investment, and risk.

Congress has twice considered the "fair value" legislation and each time has made various modifications unacceptable to the administra-

tion. Passage in time for fiscal year 1979 appropriations is unlikely. Accordingly, the Committee has not reflected the $163,000,000 in its recommendation.

The General Accounting Office has recommended that current uranium enriching prices be revised to include interest on government-owned feed materials as a cost which could and should be recovered under existing legislation. In addition, the administration has proposed criteria to allow modifications to existing contracts to cancel or defer deliveries of separative work products, which affect the costs of enriching services. The Committee believes that the price effect of these proposals should be reflected in fiscal year 1979 revenue estimates and has increased the estimates accordingly.

III. General Science and Research Programs

Three programs are included in General Science and Research:

A. HIGH-ENERGY PHYSICS

In this program studies are conducted of the fundamental building blocks of matter and the fundamental forces of nature in an attempt to more fully understand the relationships and transformations between energy and matter. The method of achieving the program objectives involves the use of large accelerator facilities to provide various types of high-energy particle beams and the use of sophisticated detection and analysis apparatus to study the particle interactions. In 1979 these facilities will be used to continue efforts to exploit recent major theoretical and experimental advances.

B. LIFE SCIENCES RESEARCH AND BIOMEDICAL APPLICATIONS

This program includes two major activities: general life sciences research and biomedical applications research. Research in this program provides (1) the fundamental basis for understanding the normal structure and functions of living organisms at all levels of biological organization; (2) the biological mechanism involved in pollutant damage and repair; and (3) new information on novel uses of radiation, radioactive and high-priority stable isotopes for diagnosis, and treatment of human disease.

C. NUCLEAR PHYSICS

This program is concerned with attaining a deeper understanding of the interactions, structure, and properties of nuclei through experimental medium energy and heavy ion nuclear research and theoretical investigations. The programs include: investigations of charge and momentum distribution of nucleons bound in nuclei; the role of nucleon resonances in the structure and interactions of nuclei; the fundamental nucleon-nucleon interactions; and nuclear matter (including possible abnormal density states) under extreme conditions of excitation.

SUMMARY OF GENERAL SCIENCE AND RESEARCH BY PROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
High energy physics	$187,950,000	$194,000,000	$194,000,000
Life sciences research and biomedical applications	41,510,000	39,700,000	39,700,000
Nuclear physics	69,148,000	72,900,000	76,900,000
Total operating expenses	298,608,000	306,600,000	310,600,000
Capital equipment	49,725,000	49,800,000	49,800,000
Construction projects	48,760,000	69,900,000	69,900,000
Capital acquisitions	98,485,000	119,700,000	119,700,000
Total, general science and research	397,093,000	426,300,000	430,300,000

The Committee recommendation provides for an increase in the nuclear physics program consisting of an additional $2,000,000 to maintain a strong research program at the Los Alamos Meson Physics Facility and an additional $2,000,000 for university reactor fuels to insure that the Nation's universities and colleges are able to maintain on-going educational activities requiring reactor fuels.

Within the total provided for nuclear physics, the Committee believes that the Department should pursue a limited program for investigation of the potential for application of heavy ions for inertial confinement fusion. Recent experiments indicate that the heavy ion approach may offer some advantages over current programs and may warrant more vigorous investigation by the Department.

IV. Atomic Energy Defense Activities Programs

Atomic energy defense activities include six programs:

A. WEAPONS ACTIVITIES

This program provides for the design, development, and underground testing of new nuclear weapons, the production of nuclear weapons, and the maintenance of stockpile weapons for the Department of Defense. During 1979, weapons production efforts will increase for several systems. Also included is funding for several new construction projects to maintain existing facilities and meet new requirements.

B. SPECIAL MATERIALS PRODUCTION

This program provides for the production of special nuclear materials to meet weapons production requirements of the Department of Defense. In addition, the program also provides for management of defense radioactive wastes. The 1979 estimates provide for the continued operation of three production reactors at Savannah River and the N Reactor at Richland, the operation of four chemical separation plants, two at Savannah River and one each in Washington and Idaho, and waste management facilities.

Funding for construction in 1979 will essentially continue projects initiated in prior years in both the production and defense waste areas including the waste isolation pilot plant, New Mexico and the fluorinel dissolution process and fuel receiving improvements, Idaho.

C. INERTIAL CONFINEMENT FUSION

The objectives of this program are to determine the feasibility of laser and electron beam fusion through inertial confinement. Future applications may include commercial power production and nuclear weapons applications.

Funding is included for the high-energy laser facility, NOVA, at the Lawrence Livermore Laboratory and for the high-energy laser facility at Los Alamos Scientific Laboratory, Los Alamos, N. Mex.

D. NUCLEAR MATERIALS SECURITY AND SAFEGUARDS

The goal of the safeguards program is to technically strengthen international nonproliferation measures, design integrated safeguards systems for nuclear power fuel cycle facilities, evaluate cost effectiveness of system concept design, and assess capabilities for further development and refinement of safeguards systems.

E. INTELLIGENCE AND ARMS CONTROL

The intelligence and arms control program provides for the conduct of activities directed toward the advancement of verification and intelligence technologies related to nuclear treaties, data collection, processing, and exploitation.

F. NAVAL REACTOR DEVELOPMENT

The Naval Reactor Development Program provides for the design, development, and testing of improved naval nuclear propulsion plants and reactor cores having longer fuel life, increased reliability, improved performance, and simplified operating and maintenance requirements. These reactors are necessary to meet a variety of military requirements of the Department of Defense. During 1979, efforts will continue on improving existing submarine and surface ship reactor core and plant technology, and on developing new advanced reactor concepts and propulsion plants including the continued design, development, and testing of a propulsion plant for the Trident ballistic submarines.

SUMMARY OF DEFENSE ACTIVITIES BY PROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Weapons activities:			
Research and development	$360,000,000	$374,694,000	$372,694,000
Testing of atomic weapons	229,100,000	210,000,000	210,000,000
Production and surveillance	550,149,000	648,000,000	641,800,000
Subtotal	1,139,249,000	1,232,694,000	1,224,494,000
Special nuclear materials:			
Production	284,014,000	324,100,000	324,100,000
Process development	13,605,000	12,400,000	12,400,000
Waste management (Defense)	123,247,000	165,000,000	165,000,000
Subtotal	420,866,000	501,500,000	501,500,000
Inertial confinement fusion	104,000,000	91,800,000	101,000,000
Nuclear materials security and safeguards	37,906,000	40,089,000	40,089,000
Intelligence and arms control	24,675,000	28,400,000	32,600,000
Naval reactors development	216,556,000	265,600,000	265,600,000
Total, operating expenses	1,943,252,000	2,160,083,000	2,165,283,000
Capital equipment	146,144,000	159,600,000	159,600,000
Construction projects	423,000,000	481,900,000	314,300,000
Total, capital acquisitions	569,144,000	641,500,000	473,900,000
Total, atomic energy defense activities	2,512,396,000	2,801,583,000	2,639,183,000

A brief discussion of the Committee's recommendation follows:

(1) *Weapons Activities.*—The Committee recommendation provides for production of a new strategic bomb in lieu of the B–77 and the modified B–43 bombs, and an increase of $4.5 million is included as provided in the Senate authorizing legislation. Although it is somewhat more costly than the administration proposed modified B–43, the new strategic bomb would be much less costly than the B–77 and still capable of satisfying the Air Force requirement. Offsetting this increase are reductions for enhanced radiation production due to slippages, for other production slippages, and for weapons research and development.

(2) *Special Nuclear Materials—Waste Management Activities.*—The Committee remains concerned by the lack of a comprehensive program to deal effectively with defense wastes. While considerable progress is being made in reducing the volume of these wastes, the Committee urges the Department to focus on the alternatives for long-term disposition of wastes and to move more aggressively to demonstrate the various technologies available for long-term storage. In this regard, efforts should be continued to reduce waste generation.

(3) *Inertial Confinement Fusion.*—The Committee recommendation maintains research and development funding at a level near the fiscal year 1978 appropriation rather than reduce this effort as proposed by the Administration. The Committee considers it important that we proceed vigorously to determine the feasibility of inertial confinement fusion as a viable energy concept.

(4) *Construction Projects.*—The Office of Management and Budget increased the Department's construction request to provide full funding for certain projects on what appears to be an arbitrary and selective basis, providing in total $178,000,000 in obligational authority over the Department's estimates for fiscal year 1979. No rationale was provided as to the objective of this increase, nor as to the management controls that would be implemented to insure appropriate application of funding for future fiscal years.

The history of DOE construction activities is replete with examples of premature commitment of funds based on project enthusiasm, leading to large cost overruns, changes in technical objectives and requirements, and failure to meet project objectives. The OMB additions would only exacerbate what is an already unsatisfactory situation in management of DOE construction activities.

Under present circumstances, the Committee considers that the annual review and appropriation process is essential to maintain necessary oversight of DOE major construction programs. Accordingly, the Committee has reduced construction funding to levels initially requested by the Department for fiscal year 1979, along with certain other adjustments in funding levels for specific projects.

Waste Isolation Pilot Plant.—The Committee has deleted without prejudice $30,000,000 for project 77–13–f, the Waste Isolation Pilot Plant, Delaware Basin, New Mexico. This reduction is to defer land acquisition for the project pending authorization action by Congress on whether spent fuel rods from civilian nuclear reactors should be stored at WIPP and whether this storage of civilian nuclear waste at the site where defense nuclear waste is to be stored would require NRC licensing.

WIPP has been authorized as a facility for the permanent disposal of defense transuranic waste and for R. & D. on other waste forms including high level waste. As presently authorized, licensing of WIPP is not required.

A limited demonstration of the permanent disposal of up to one thousand commercial spent fuel assemblies has been proposed by a DOE task force. Such a demonstration and possible attendant licensing requirements have been strongly opposed.

The Committee directs the Secretary of DOE, in consultation with the Nuclear Regulatory Commission and the State of New Mexico, to conduct and transmit to Congress by the time of the fiscal year 1980 DOE budget submission, a study of NRC licensing of the project, including a detailed evaluation of the costs and benefits of licensing, the technical and other data requirements for licensing, the potential uses for the project and the advisability of those uses, and the feasibility and national security implications of licensing the project.

The Committee will favorably consider a supplemental budget request for the WIPP project when these issues are resolved.

In accord with this action deferring a decision on the use of WIPP for civilian as well as defense nuclear waste, the Committee has deleted language in the House bill relating to this matter until it is resolved by the appropriate authorizing committees.

V. POLICY, MANAGEMENT AND SUPPORT

The Policy, Management and Support program provides policy analysis and support requirements necessary to the management and support of all DOE programs. The program provides for: (1) development and analysis of Department policy proposals, legislation, and program evaluation; (2) a central planning, analysis and evaluation capability for technical program issues; (3) the salaries, travel and other expenses associated with the program direction and administration of the Department; (4) the institutional relations program that provides information services and outreach activities, evaluation of energy-related inventions and support for energy training and education; (5) international affairs; (6) the performance of security investigations for persons with access to restricted atomic energy data; (7) the equal employment opportunity-assigned facilities program to identify and eliminate discriminatory practices in assigned contractor facilities; (8) the in-house energy management program to reduce DOE energy consumption; (9) engineering and architectural services for planning and design of complex construction projects presently under consideration for possible future authorization; and (10) the decontamination and decommissioning program for disposition of surplus radioactively-contaminated facilities and sites; and (11) management of Department-wide and special inventories.

In order to facilitate consideration by the Committee, and to permit evaluation of resource requirements with Departmental activities, the Department's request for Policy, Management and Support has been restructured into categories as shown in the following table:

A brief discussion of the Committee's recommendation follows:

(1) *Weapons Activities.*—The Committee recommendation provides for production of a new strategic bomb in lieu of the B–77 and the modified B–43 bombs, and an increase of $4.5 million is included as provided in the Senate authorizing legislation. Although it is somewhat more costly than the administration proposed modified B–43, the new strategic bomb would be much less costly than the B–77 and still capable of satisfying the Air Force requirement. Offsetting this increase are reductions for enhanced radiation production due to slippages, for other production slippages, and for weapons research and development.

(2) *Special Nuclear Materials—Waste Management Activities.*—The Committee remains concerned by the lack of a comprehensive program to deal effectively with defense wastes. While considerable progress is being made in reducing the volume of these wastes, the Committee urges the Department to focus on the alternatives for long-term disposition of wastes and to move more aggressively to demonstrate the various technologies available for long-term storage. In this regard, efforts should be continued to reduce waste generation.

(3) *Inertial Confinement Fusion.*—The Committee recommendation maintains research and development funding at a level near the fiscal year 1978 appropriation rather than reduce this effort as proposed by the Administration. The Committee considers it important that we proceed vigorously to determine the feasibility of inertial confinement fusion as a viable energy concept.

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In order to facilitate consideration by the Committee, and to permit evaluation of resource requirements with Departmental activities, the Department's request for Policy, Management and Support has been restructured into categories as shown in the following table:

SUMMARY OF POLICY, MANAGEMENT AND SUPPORT BY SUBPROGRAM

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Policy, management, and support:			
Operating expenses:			
Salaries and expenses:			
Office of the Secretary	$1,445,000	$1,580,000	$1,580,000
Departmental administration	56,405,000	60,860,000	57,260,000
Program administration	117,168,000	126,350,000	122,035,000
Other expenses	110,393,000	112,706,000	111,706,000
Unallocated reduction	0	−7,500,000	0
Total, salaries and expenses	285,411,000	293,996,000	292,581,000
Policy and external relations:			
Policy and program analyses	859,000	2,905,000	859,000
General systems studies	14,000,000	17,000,000	14,000,000
Institutional relations	28,619,000	29,660,000	34,876,000
Consumer affairs	650,000	1,250,000	650,000
Public awareness	3,572,000	3,250,000	3,250,000
International cooperation in nonnuclear technologies	3,703,000	3,250,000	3,250,000
Total, policy and external relations	51,403,000	57,315,000	56,885,000
Other supporting services:			
In-house energy management	0	3,600,000	3,600,000
Security investigations	12,150,000	13,900,000	13,900,000
Equal employment opportunity	3,810,000	4,322,000	4,332,000
Decontamination and decommissioning	18,000,000	28,000,000	25,000,000
Cost of work for others	18,265,000	22,600,000	22,600,000
Change in inventories and working capital	40,045,000	35,313,000	7,000,000
Total, other supporting services	92,270,000	107,745,000	76,432,000
Miscellaneous revenues	−100,720,000	−54,000,000	−112,900,000
Total, operating expenses	328,364,000	405,056,000	312,998,000
Capital equipment	4,305,000	6,100,000	6,100,000
Construction projects	15,730,000	54,400,000	14,455,000
Total, capital acquisitions	20,035,000	60,500,000	20,555,000
Total, policy, management and support	348,399,000	465,556,000	333,553,000

A brief description of subprogram activities and Committee recommendations follows:

(1) *Salaries and Expenses.*—The Department requested funding for 19,299 full-time positions with an end year strength of 19,109 positions for fiscal year 1979, compared to 19,500 positions in fiscal year 1978. A total of 14,961 positions were requested for programs funded in the accompanying bill, as follows:

Budget activity:	*Full-time positions*
Policy, management and support	7,803
Power marketing administrations	4,309
Federal energy regulatory administration	1,403
Direct program funding	1,446
Total budget request	14,961

Department witnesses testified that detailed personnel allocation plans for 1979 have not been made. Thus, precise allocations to programs was not possible. The request included an unallocated reduction of 391 positions and $7,500,000 to reflect the efficiencies expected from consolidation and the reduction in end-year strength from 19,500 positions in 1978 to 19,109 positions in 1979.

The review of staffing allocations shows great imbalance. Certain staff activities have been assigned large increases over comparable activities in DOE predecessor organizations. Tables provided to the Committee on February 25, 1978 show these examples:

Organization	Positions on Oct. 1, 1977	Increases assigned	Totals on Feb. 25, 1978
Policy and evaluation	146	68	214
Intergovernmental and institutional relations	275	59	334
International affairs	107	31	138
Energy research staff	22	54	76
Inspector general	66	53	119

On the other hand, the tables show staffing for technical organizations was constrained. Staffing for Energy Technology programs was decreased by 12 positions. Only 8 positions were added for Conservation and Solar Applications technical programs.

Subsequent data reflects large growth in staffing of offices and overhead positions for Assistant Secretaries, also at the expense of technical program positions. The following table summarizes staff office positions assigned to the various Assistant Secretaries:

	Administrative support and overhead	Total positions
Assistant Secretary:		
Resource applications	50	508
Conservation and solar applications	54	403
Environment	44	296
Energy research	51	155
Defense programs	18	216
Energy technology	43	1,094
Total	260	2,782

The shift of positions from technical program management into ever growing staff offices is of serious concern to the Committee. Accordingly, the Committee has concurred with the House Committee distribution of the unallocated reduction to ensure adequate resources for management and direction of line programs, and to reflect the efficiencies that should accrue from the consolidation of activities.

The Committee recommendation also agrees with the House action for salaries and expenses and provides the following fiscal year 1979 staffing levels for DOE headquarters and field offices for energy, science and defense activities funded under the Policy, Management and Support budget:

POLICY, MANAGEMENT AND SUPPORT

Department Headquarters

	Full-time permanent positions
Office of the Secretary:	
Secretary's Office	20
Executive Secretariat	35
Committees and boards	5
Total	60
Departmental Administration:	
Office of the Controller	332
Inspector General	119
Procurement and contracts	220
Administration	750
General counsel	270
Intergovernmental and institutional relations	300
Policy and evaluation	198
International affairs	123
Equal opportunity	33
Energy research staff	55
Total	2,400

POLICY, MANAGEMENT AND SUPPORT—Continued

Department Headquarters—Continued

	Full-time permanent positions
Program Administration:	
Assistant Secretary for Energy Technology:	
Assistant Secretary and staff support	50
Solar energy program	80
Geothermal energy program	70
Magnetic confinement	76
Fuel cycle R. & D	80
Breeder reactor	95
Nuclear research and applications	100
Hydroelectric	15
Biomass	25
Naval reactors	82
Special nuclear materials production	60
Electric energy systems	35
Energy storage	17
Total	785
Assistant Secretary for Resource Applications:	
Assistant Secretary and staff support	50
Geothermal loan guarantee	10
Hydroelectric power development	10
Uranium enrichment activities	50
Uranium resource assessment	21
Power marketing administration	14
Power applications	5
Total	160
Assistant Secretary for Environment:	
Assistant Secretary and staff support	50
Overview and assessments:	
Operational environment and safety	71
Other overview and assessment	100
Biomedical and environmental research	49
Other environment R. &. D. activities	26
Total	296
Assistant Secretary for Defense Programs:	
Assistant Secretary and staff support	23
Weapons activities	81
Security and safeguards	110
Inertial confinement fusion	35
Intelligence and arms control	46
Classification	37
Total	332
Program Administration:	
Assistant Secretary for Conservation and Solar Applications:	
Assistant Secretary and staff support	50
Solar research and technology development	30
Solar heating and cooling demonstration	25
Total	105
Office of Energy Research:	
Basic energy sciences	53
High energy physics	13
Nuclear physics	4

POLICY, MANAGEMENT AND SUPPORT—Continued

Department Headquarters—Continued

	Full-time permanent positions
Program Administration—Continued	
Office of Energy Research—Continued	
Advanced technology and assessment	4
Total	74
Total Headquarters	4,212
Field offices	
Operations offices	2,727
Special project offices	373
Other field offices	427
Total field offices	3,527
Total, policy, management and support	7,739

For fiscal year 1980, the Department is to work with Committee staff to establish suitable format and detail to permit a thorough review of Federal staffing in relation to program responsibilities. The Department's request is to include, as a separate budget element, the positions and funding for Federal personnel for each subprogram and major project activity. The Committee will want to examine the direct headquarters and field personnel requirements relating to program activities together with an appropriate allocation for field office, departmental administration and program administration costs, so that these costs may be evaluated and funded along with other program and project costs, at an appropriate level of detail.

The Committee recommendations provide $8,000,000 for salaries of temporary, part-time and intermittent employees, essentially the same level as for fiscal year 1978.

(2) *Policy and External Relations.*—The Committee recommendations provide a total of $56,885,000 for policy and external relations. This includes reductions of $2,046 for Policy and program analysis and $3,000,000 for general systems studies in accord with the Senate authorizing legislation, a reduction of $600,000 for consumer affairs and an increase of $5,216,000 for Community assistance for payments to the former AEC communities of Los Alamos, N. Mex.; Oak Ridge, Tenn.; and Richland, Wash.

The Committee recognizes the continuing burden which the Government facilities place on the communities of Oak Ridge, Tenn.; Los Alamos, N. Mex.; and Richland, Wash. The Committee feels the Federal Government should not significantly reduce or terminate financial assistance to these communities, as long as the Government owns the principal industrial facilities. It is the feeling of the Committee that the Federal Government has a responsibility for contributing a normal share of local government revenues which would in other circumstances be paid by private industry.

(3) *Other Supporting Services.*—Included in Other Supporting Services are funds for investigating and providing security clearances for personnel involved with classified security matters; management of efforts to reduce in-house consumption of energy (DOE is the second

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largest energy user in the Federal government); staffing and related costs to carry out assigned responsibilities for the EEO Contract Compliance program; and the decontamination and decommissioning of surplus radioactively contaminated DOE facilities and sites. The cost of work for others account represents costs associated with providing unique services and materials to eligible purchases when they are not readily available in the private sector. These costs are offset by receipts in the miscellaneous revenues account.

The Committee recommendation provides a decrease of $28,313,000 for change in inventories and working capital and a decrease of $3,000,000 in decontamination and decommissioning in accord with the Senate authorizing legislation.

(4) *Miscellaneous Revenues.*—The Committee recommendation increases estimated miscellaneous revenues by $58,900,000 to reflect application of these revenues to offset DOE costs, as authorized by Public Law 95–238, rather than crediting miscellaneous receipts, as proposed in the Department request. The revenues include the sale of steam and services from N Reactor, revenue from leased lands, revenue for separation of irradiated fuels, revenue from Shippingport and other miscellaneous revenues which offset, at least in part, the costs associated with departmental operations from which these revenues are derived.

(5) *Plant and Equipment.*—The Committee recommendation provides $14,455,000 for in-house energy management and supporting activities construction projects. The reductions of $22,345,000 for Modifications for Energy Management (Project 79–4–a) and $10,600,000 for the Program Support Facility, Argonne National Laboratory (project 78–19–a) are in accord with the Senate authorizing legislation. The line item for plant "Engineering and Design" (Project 79–5) is reduced by $7,000,000.

Power Marketing Administrations

OPERATIONS AND CONSTRUCTION

Appropriations, 1978	$120,454,000
Budget estimate, 1979	143,573,000
House allowance	143,473,000
Committee recommendation	145,473,000
Comparison:	
Budget estimate	+1,900,000
House allowance	+2,000,000

The Committee recommends an appropriation of $145,473,000, an increase of $1,900,000 over the budget estimate and $2,000,000 over the House allowance.

BACKGROUND

Section 302 of Public Law 95–91 transferred to the Department of Energy the power marketing functions under section 5 of the Flood Control Act of 1944 and all other functions of the Department of the Interior with respect to the Alaska Power Administration, Bonneville Power Administration, the Southeastern Power Administration, the Southwestern Power Administration and the power marketing functions of the Bureau of Reclamation including the transmission

and disposition of electric power and energy from Falcon and Amistad Dams.

The clear intent of Public Law 95–91 was that these activities be preserved as separate and distinct organizational entities within the Department, headed by an Administrator appointed by the Secretary, with a principal office located in the region served. The Act also provided for establishment of a separate power administration for the Bureau of Reclamation, Falcon and Amistad Dam electric power transmission and distribution activities.

Bonneville Power operations are self-financing under authority of the Federal Columbia River Transmission System Act of 1974. The Act authorizes Bonneville Power to use its revenues to finance operating costs, capital construction and to sell bonds to the Treasury if necessary to finance any remaining capital program requirements.

All other power marketing administrations are funded annually in fiscal year 1979, these receipts are estimated by the DOE to total $275,805,000, compared to $243,966,000 in fiscal year 1978.

SUMMARY OF POWER MARKETING ACTIVITIES BY ADMINISTRATION

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Alaska Power Administration	$2,095,000	$2,614,000	$2,614,000
Bonneville Power Administration	0	0	0
Southeastern Power Administration	1,143,000	1,212,000	1,212,000
Southwestern Power Administration	25,619,000	36,009,000	35,903,000
Western Area Power Administration	91,597,000	103,738,000	105,738,000
Total	120,454,000	143,573,000	145,473,000

A brief description of each Administration's activities and the Committee's recommendations follows:

(1) *Alaska Power Administration.*—The Alaska Power Administration operates, maintains, and markets power for the two Federal hydroelectric projects in Alaska, and conducts investigations of future water and power resource developments and power system studies. Program objectives include: maximizing benefits and protecting investments for the operating projects; and contributing, through the investigative program, to use and development of renewable energy sources, such as hydroelectric, for Alaska's power needs. The State's power systems are presently dependent on oil and natural gas for over 75 percent of energy requirements; demands are increasing rapidly; opportunities exist to shift to coal and hydroelectric resources using environmentally sound projects. Revenues from power marketing are delivered to the Treasury, and are expected to total $3,259,000 in fiscal year 1979. This reflects an increase over present levels through increased utilization of hydroelectric power from the Snettisham Project.

The Committee recommendation is the same as the request, $2,614,000.

(2) *Bonneville Power Administration.*—Bonneville Power Administration (BPA) is the Federal electric power marketing agency for the Federal Columbia River Power System (FCRPS), which consists of the hydroelectric generating facilities in the Pacific Northwest of the U.S. Army Corps of Engineers and the U.S. Bureau of Reclamation

(30 projects at present), plus BPA's transmission system of more than 12,600 circuit miles of high-voltage transmission lines and 339 substations. BPA markets about one-half of the electric power produced in the Northwest and provides about four-fifths of the region's bulk electric power transmission capacity. Also, BPA markets and exchanges electric power interregionally over the Pacific Northwest-Pacific Southwest Intertie, and in Canada over interconnections with utilities in British Columbia. During fiscal year 1977, the FCRPS generated approximately 63,000,000,000 kilowatt-hours of hydroelectricity, equivalent to about 105,000,000 barrels of oil, if generated by oil-fired thermal powerplants.

The Committee's recommendations and the accompanying bill provide for the construction of 500 kilovolt transmission and substation facilities extending from BPA's main grid to interconnect with two 500 kilovolt lines proposed to be built by the Montana Power Co. to transmit output from two 700 megawatt generating stations in the Colstrip project located in eastern Montana to load centers in the Pacific Northwest. BPA is responsible for the preparation of the Federal Environmental Impact Statement on the Colstrip project and current estimates call for the final EIS to be completed in fiscal year 1979. The provision for the interconnecting transmission lines in this bill allows BPA, on satisfaction of environmental considerations and resolution of right of way issues, to begin timely design and construction of the facilities. The Committee anticipates that negotiations with the Flathead Indian Reservation Tribal Council regarding the integration of Colstrip generation with the BPA grid will not be affected by approval of expenditure of funds for BPA to carry out its role.

The Committee accepts the expenditure detail submitted in the BPA justification materials except that the request includes an increase in the estimated contribution to the Electric Power Research Institute from $500,000 in fiscal year 1978 to $9,300,000 in 1979. This contribution seems excessive when considered in relation to BPA's own significant research and development expenditures. Accordingly, the Committee recommends that Bonneville take into account its own R. & D. expenditures when negotiating the final allowance for participation in EPRI programs.

(3) *Southeastern Power Administration.*—The Southeastern Power Administration markets hydroelectric power produced at Federal projects located in 10 Southeastern states in accordance with policy directives contained in Section 5 of the Flood Control Act of 1944. The States include Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Florida, and Mississippi.

Southeastern now markets power from 21 Federal dams in the Southeast with a combined capacity of 2,712 megawatts. The power is currently sold to 200 wholesale customers in 11 States. It is anticipated that contractual arrangements currently under negotiation for the disposition of Laurel project power will add an additional nine customers in Kentucky.

Power revenues through fiscal year 1977 totaled $621,028,487. Revenues from the sale of power are estimated at $50,910,000 for fiscal year 1978 and $55,600,000 for fiscal year 1979.

The appropriation provides for (1) scheduling the generation of power and supervision of power deliveries, (2) purchase of firming

energy to meet customer load requirements and payment of wheeling charges for delivery of power over non-Federal transmission lines, (3) administration of contracts for the sale of power and energy and establishment of rates to assure repayment of power costs, and (4) general administration and support of Southeastern's power marketing program.

The Committee recommendation provides the full amount requested.

(4) *Southwestern Power Administration.*—The Southwestern Power Administration is the marketing agent for disposal of power and energy generated at U.S. Army Corps of Engineers hydroelectric plants in the six-state area of Kansas, Oklahoma, Texas, Missouri, Arkansas, and Louisiana. The agency provides transmission, substation and switching facilities for transmission of power from hydroelectric projects. The Operation and Maintenance program provides for System Operation and Maintenance, Purchase of Power and Wheeling, Power Contracts and Rates and General Administration. An Emergency Fund is available permanently for emergency expenses that would be necessary to insure continuity of service (U.S. Code 825s–1; 63 Stat. 767; 65 Stat. 249).

The fiscal year 1979 budget estimates includes an amendment transmitted on May 2, 1978, totaling $16,100,000 to enable the Southwestern Power Administation to purchase supplemental electric power in periods of low water. The additional funding will cover 85 percent of the hydrological conditions experienced during Southwestern's 47 year operating history, and fund contractual arrangements which commenced December 1, 1977, for marketing power to 19 municipalities and 4 Federal agencies in Oklahoma and Arkansas. The Committee recommendation includes $16,000,000 for this purpose.

As discussed during the hearings with the Secretary and the Assistant Secretary for Resource Applications on the Power Marketing Administration requests, the Committee expects the Department to move promptly in establishing the new rates for Southwestern Power Administration, and other Administrations as necessary, to recover costs and meet repayment requirements on a current basis. The Committee intends to follow the progress of the Department actions closely so as to assure the necessary attention to this matter.

(5) *Western Area Power Administration.*—The Western Area Power Administration (WAPA) markets the power and energy generated at Federal generating projects in 14 Western States to wholesale customers, constructs transmission facilities in selected areas, and operates and maintains an extensive high voltage transmission system. WAPA markets power and energy from the Bureau of Reclamation powerplants, Corps of Engineers powerplants of the Pick-Sloan Missouri Basin Program, and the International Boundary and Water Commission's powerplants in Texas. Agency activities are financed from funds with other funding from revenues of the sale of power and energy, water user advances, and cooperative work advances from non-Federal origins.

The Committee remains concerned by the Department's delay in establishing and staffing of the WAPA headquarters office which is needed to provide effective management and integration of WAPA activities. Accordingly, the Committee recommendation provides an increase of $2,000,000 for additional personnel requirements as

recommended in the Senate authorizing legislation for this new agency. This amount should be sufficient as full year costs will not be required in bringing the new personnel on board. In addition, the Department is directed to provide a status report on September 30, 1978, on the progress and obstacles in activating this office and quarterly thereafter until the office in fully operational.

COMMITTEE COMMENTS

The Committee recommendation provides $145,473,000 for the Power Marketing Administrations, which is $1,900,000 more than requested. The Committee was assured by the Department that the five administrations would be administered as separate and distinct organizational entities as intended by Public Law 95–91, and that the funding and personnel provided in the accompanying bill is to be available for the respective Administrations without regard to other Departmental operations and activities.

The Committee expects the five power marketing agencies to conduct themselves in an efficient and cost-effective manner; to keep costs as low as possible and raise rates, which are based on costs, as frequently as is needed to recover costs and repay Federal investment. The Committee holds each Administrator responsible for all costs incurred by his agency and for meeting repayments schedules for the Federal investment.

The Energy Organization Act which created the Department of Energy, delegates considerable authority to the power marketing administrators. For example, the Bonneville Power Administrator has available to him all the authorities contained in the Bonneville Project Act, the Pacific Southwest/Pacific Northwest Regional Preference Act, and the Federal Columbia River Transmission System Act which established the agency's self-financing authority. The Committee expects each Administrator to fully utilize the authorities granted to him.

Federal Energy Regulatory Commission

SALARIES AND EXPENSES

Appropriations, 1978	$34, 133, 000
Budget estimate, 1979	43, 670, 000
House allowance	51, 300, 000
Committee recommendation	51, 300, 000
Comparison:	
Budget estimate	+7, 630, 000
House allowance	----------

An appropriation of $51,300,000 is recommended by the Committee. This is the same as the House allowance and $7,630,000 over the budget request.

Section 204 and title IV of Public Law 95–91, the Department of Energy Organization Act, established within the Department of Energy the Federal Energy Regulatory Commission to carry out functions transferred from the Federal Power Commission for hydroelectric, electric utility and natural gas regulation and from the Interstate Commerce Commission for oil pipeline regulation.

The Act sets out the clear intent of Congress that the Commission be independent from supervision or direction from any other officer of the Department, but provides that the Secretary shall provide to the Commission such support and facilities as the Commission determines it needs to carry out its functions. According to estimates furnished by the Department, this support is estimated to total $9,300,000 in fiscal year 1979, including services for personnel, accounting, facilities support, computer operations, procurement and other similar services funded elsewhere in the Department request.

SUMMARY

	Fiscal year 1978	Fiscal year 1979 budget	Committee bill
Operating expenses:			
Personnel compensation	$25, 554, 000	$33, 581, 000	$37, 245, 000
Personnel benefits	2, 377, 000	3, 144, 000	3, 485, 000
Travel and transportation	1, 109, 000	1, 167, 000	1, 482, 000
Rents and communications	3, 070, 000	3, 430, 000	3, 755, 000
Supplies and services	1, 826, 000	1, 951, 000	4, 736, 000
Equipment	197, 000	397, 000	597, 000
Total	34, 133, 000	43, 670, 000	51, 300, 000

The Committee encourages the efforts of FERC to keep the public informed of its activities. However, the appropriation included in the bill does not provide for funding intervenor actions.

Special Foreign Currency Program

INTERNATIONAL COOPERATION IN NON-NUCLEAR TECHNOLOGY

Appropriations, 1978	$1, 500, 000
Budget estimate, 1979	2, 000, 000
House allowance	2, 000, 000
Committee recommendation	2, 000, 000
Comparison:	
Budget estimate	----------
Budget allowance	----------

The Committee recommends $2,000,000, the same as the House allowance and budget request, for the Special Foreign Currency program for use in international cooperation to develop alternative energy sources in underdeveloped countries such as Burma, Pakistan, India, or Egypt.

The problem of energy supply in underdeveloped countries has become very serious since the significant rise in the price of oil. It is believed that in many of these countries programs involving small-scale, decentralized, "light-capital" technologies are the best approach to the energy problem. The DOE program is intended to couple research and development approaches within the developing country with similar approaches in the United States in order to maximize the benefits of interaction between the related activities. The program will utilize foreign currencies which are now held by the U.S. Government in quantities that are in excess of normal requirements.

TITLE II—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

Appropriations, 1978	$103,646,000
Budget estimate, 1979	[1] 109,270,000
House allowance	140,014,000
Committee recommendation	137,138,000
Comparison:	
Budget estimate	+27,868,000
House allowance	−2,876,000

[1] Includes budget amendment of $1,170,000 (S. Doc. 95-109).

The Committee recommends an appropriation of $137,138,000, a reduction of $2,876,000 below the House allowance and $27,868,000 over the budget request.

Funds are provided under this heading for surveys and activities shown in the following table, with the Committee comments following immediately after the tabulation.

GENERAL INVESTIGATIONS

Type	Survey	Budget estimate	House allowance	Committee recommendation
	ALABAMA			
(FDP)	BREWTON AND EAST BREWTON	86,000	86,000	86,000
(N)	LITTLE LAGOON AT GULF SHORES	---	60,000	60,000
(SPEC)	TENNESSEE TOMBIGBEE WATERWAY	500,000	500,000	500,000
(FDP)	VILLAGE CREEK	74,000	74,000	74,000
	ALASKA			
(N)	HOMER HARBOR	76,000	76,000	76,000
(FDP)	RIVERS AND HARBORS SMALL HYDRO PLANTS	---	140,000	140,000
(N)	SEWARD HARBOR	62,000	62,000	62,000
(FDP)	SOUTHCENTRAL RAILBELT AREA	329,000	329,000	329,000
(N)	SOUTHCENTRAL REGION OF ALASKA	257,000	257,000	257,000
(N)	ST PAUL ISLAND HARBOR	---	132,000	132,000
	AMERICAN SAMOA			
(N)	HARBORS & RIVERS IN AMERICAN SAMOA	215,000	215,000	215,000
	ARIZONA			
(FDP)	GILA RIVER & TRIBUTARIES	---	50,000	50,000
(FDP)	PHOENIX METROPOLITAN AREA	545,000	545,000	545,000
(FDP)	TUCSON METROPOLITAN AREA	---	320,000	320,000
	ARKANSAS			
(FDP)	ARKANSAS RIVER IN VICINITY OF FORT SMITH-VAN BUREN	---	100,000	100,000
(FDP)	LITTLE ROCK METROPOLITAN AREA	126,000	126,000	126,000
(FDP)	OUACHITA RIVER BASIN	425,000	650,000	650,000
(FDP)	PINE BLUFF METROPOLITAN AREA	115,000	115,000	115,000
(COMP)	RED RIVER BELOW DENISON DAM (AUTH. RPT) ARK., LA., OKLA., TEX.	120,000	160,000	160,000
(N)	ST FRANCIS RIVER NAVIGATION	46,000	46,000	46,000
(COMP)	WHITE RIVER BASIN ARK & MO (AUTH RPT)	75,000	75,000	75,000
(FDP)	WHITE RIVER BASIN RESERVOIRS, ARK. & MO	463,000	463,000	463,000
	CALIFORNIA			
(FDP)	ALAMEDA CREEK UPPER BASIN	165,000	165,000	165,000
(N)	BOLINAS LAGOON	---	100,000	---
(SP)	CITY OF ALAMEDA SHORELINE	---	100,000	100,000
(N)	COAST OF NORTHERN CALIFORNIA (HARBORS FOR LIGHT-DRAFT VESSELS)	45,000	45,000	45,000
(FDP)	EEL RIVER	---	100,000	100,000
(FDP)	GUADALUPE RIVER	200,000	200,000	200,000
(N)	HUMBOLDT HARBOR & BAY	---	170,000	170,000
(FDP)	LOS ANGELES COUNTY DRAINAGE AREA REVIEW	435,000	435,000	435,000
(N)	LOS ANGELES-LONG BEACH HARBORS (INCL SAN PEDRO MODEL)	155,000	155,000	155,000
(FDP)	NORTHERN CALIFORNIA STREAMS	142,000	142,000	142,000
(FDP)	NOVATO CREEK & TRIBUTARIES	70,000	70,000	70,000
(N)	OCEANSIDE HARBOR	---	85,000	85,000
(FDP)	SACRAMENTO RIVER & TRIBS (BANK PROTECTION & EROSION CONTROL)	285,000	360,000	360,000
(N)	SACRAMENTO RIVER DEEPWATER SHIP CHANNEL	70,000	70,000	70,000
(FDP)	SACRAMENTO-SAN JOAQUIN DELTA	275,000	275,000	275,000
(N)	SACRAMENTO VALLEY NAV	---	50,000	50,000
(FDP)	SALINAS RIVER INCL PART OF SALINAS-MONTEREY METRO AREA	202,000	202,000	202,000
(FDP)	SAN DIEGO COUNTY STREAMS	195,000	195,000	195,000
(SP)	SAN DIEGO COUNTY, VIC OF OCEANSIDE	160,000	160,000	160,000
(N)	SAN FRANCISCO BAY AREA (IN DEPTH)	185,000	185,000	185,000
(FDP)	SAN FRAN BAY & SAC-SAN JOAQUIN DELTA WATER QUAL & WASTE DISP	---	200,000	200,000
(FDP)	SAN FRANCISCO BAY SHORELINE	---	100,000	100,000
(FDP)	SAN JOAQUIN RIVER BASIN	500,000	500,000	500,000
(N)	SAN LORENZO RIVER SILT REMOVAL	---	150,000	---
(FDP)	SAN LEANDRO BAY	---	50,000	50,000
(FDP)	SAN LUIS OBISPO COUNTY	210,000	210,000	210,000
(N)	SAN PEDRO BAY PORTS	---	200,000	---
(FDP)	SANTA ANA RIVER (PHASE I)	---	340,000	340,000
(FDP)	SANTA ANA RIVER BASIN & ORANGE COUNTY	410,000	410,000	410,000
(FDP)	SANTA CLARA RIVER	65,000	65,000	65,000
(N)	SUNSET HARBOR	---	50,000	---
(FDP)	WHITEWATER RIVER	300,000	300,000	300,000
	COLORADO			
(FDP)	ARKANSAS RIVER & TRIBS ABOVE JOHN MARTIN DAM (PHASE I)	500,000	500,000	500,000

GENERAL INVESTIGATIONS—CONTINUED

Type	Survey	Budget estimate	House allowance	Committee recommendation
	CONNECTICUT			
(N)	BRIDGEPORT HARBOR	40,000	40,000	40,000
(COMP)	CONN. RIVER BASIN AUTH REPORT, CONN., MASS., & N.H.	158,000	208,000	208,000
(COMP)	LONG ISLAND SOUND AUTHORIZATION REPORT	---	50,000	50,000
(SPEC)	LONG ISLAND SOUND-DREDGED MATERIAL CONTAINMENT	200,000	300,000	300,000
(N)	NEW LONDON HARBOR (PHASE I)	230,000	230,000	230,000
(FDP)	RIPPOWAM RIVER	150,000	150,000	150,000
	DELAWARE			
(FDP)	CHRISTINA RIVER BASIN, DEL., MD., & PA	105,000	105,000	105,000
(N)	DELAWARE RIVER ESTUARY, SALINITY INTRUSION	20,000	100,000	100,000
(N)	INDIAN RIVER INLET & BAY	20,000	20,000	20,000
(N)	MURDERKILL & ST JONES RIVERS	40,000	40,000	40,000
	DISTRICT OF COLUMBIA			
(SPEC)	METROPOLITAN WASHINGTON, D.C. WATER SUPPLY	600,000	600,000	600,000
	FLORIDA			
(N)	APALACHICOLA RIVER BELOW JIM WOODRUFF LOCK & DAM	66,000	120,000	120,000
(FDP)	BREVARD COUNTY	100,000	100,000	100,000
(FDP)	CANAL 18-JUPITER INLET-LOXAHATCHEE RIV, CENTRAL & SO FLA	100,000	100,000	100,000
(FDP)	CENTRAL & SOUTHERN FLA WATER SUPPLY	200,000	250,000	200,000
(SP)	DADE COUNTY (NORTH OF HAULOVER BEACH PARK)	90,000	90,000	90,000
(N)	FORT PIERCE HARBOR	---	65,000	65,000
(FDP)	FOUR RIVER BASINS	92,000	92,000	92,000
(N)	GULF COAST PASSES, IWW	---	20,000	20,000
(FDP)	GOLDEN GATES ESTATES	---	50,000	50,000
(N)	JACKSONVILLE HARBOR	100,000	100,000	100,000
(FDP)	JACKSONVILLE METROPOLITAN AREA	210,000	210,000	210,000
(FDP)	KISSIMMEE RIVER	---	500,000	200,000
(SP)	MARTIN COUNTY	90,000	90,000	90,000
(SP)	MONROE COUNTY	47,000	47,000	47,000
(N)	OKEECHOBEE WATERWAY (ST. LUCIE CANAL)	---	60,000	60,000
(N)	PEACH CREEK TO WESTERN LAKE	---	20,000	20,000
(N)	PENSACOLA HARBOR	100,000	135,000	135,000
(FDP)	PENSACOLA-TALLAHASSEE METRO & OTHER URBAN AREAS	166,000	166,000	166,000
(SP)	PINELLAS COUNTY	10,000	10,000	10,000
(SP)	SARASOTA COUNTY	10,000	70,000	70,000
(N)	ST. PETERSBURG HARBOR (ECONOMIC RESTUDY)	---	25,000	25,000
(FDP)	SHARK RIVER SLOUGH AREA	---	---	50,000
(SP)	SHORES OF NORTHWEST FLORIDA	50,000	50,000	50,000
(SP)	VOLUSIA COUNTY SHORES	64,000	64,000	64,000
	GEORGIA			
(FDP)	METROPOLITAN ATLANTA AREA	125,000	125,000	125,000
(FDP)	METROPOLITAN SAVANNAH AREA	500,000	500,000	500,000
(FDP)	SATILLA RIVER BASIN	---	50,000	50,000
	GUAM			
(N)	HARBORS & RIVERS IN THE TERRITORY OF GUAM	350,000	350,000	350,000
	HAWAII			
(FDP)	HARBORS & RIVERS IN HAWAII	255,000	255,000	255,000
(N)	HILO AREA COMPREHENSIVE STUDY	100,000	100,000	100,000
(FDP)	KIHEI DISTRICT	---	50,000	50,000
(FDP)	LAVA FLOW CONTROL	130,000	130,000	130,000
	IDAHO			
(FDP)	COLUMBIA RIVER & TRIBS, IDA., MONT., ORE., & WASH	1,180,000	1,350,000	1,350,000
(FDP)	SPOKANE RIVER AND TRIBS	---	20,000	20,000
(FDP)	UPPER SNAKE RIVER & TRIBS, IDA., & WY	415,000	415,000	415,000
	ILLINOIS			
(FDP)	CHICAGOLAND UNDERFLOW PLAN (PHASE I)	1,000,000	1,000,000	1,000,000
(FDP)	CHICAGO-SOUTH END O LAKE MICHIGAN, ILL. & IND	300,000	300,000	300,000
(FDP)	DE KOGNIA & FOUNTAIN BLUFF LEVEE & DRAINAGE DISTRICT	---	110,000	---
(SPEC)	DIVERSION OF LAKE MICHIGAN WATER AT CHICAGO	500,000	500,000	500,000
(FDP)	EAST CAPE GIRARDEAU, CLEAR CRK, N ALEX, PRESTON & MILLER, D&LD	135,000	135,000	135,000
(FDP)	FOX RIVER, ILL. & WISC	250,000	250,000	250,000

GENERAL INVESTIGATIONS—CONTINUED

Type	Survey	Budget estimate	House allowance	Committee recommendation
(N)	ILLINOIS SHORE FROM WAUKEGAN, ILL.-WISC. STATE LINE...	---	150,000	150,000
(FDP)	LA MOINE RIVER...	---	100,000	100,000
(N)	MISS RIVER VR-HND NAV, ILL., MO., IA., WIS., MIN...	100,000	150,000	150,000
(FDP)	MISS. RIVER, CDOW RAPIDS DAM TO OHIO RIVER, ILL., IOWA, & MO...	100,000	100,000	100,000
(FDP)	QUAD-CITIES URBAN STUDY...	424,000	424,000	424,000
(FDP)	RICHLAND CREEK...	---	50,000	50,000
(FDP)	ROCK RIVER AT ROCKFORD...	179,000	179,000	179,000
	INDIANA			
(FDP)	COLUMBUS...	140,000	140,000	140,000
(FDP)	LITTLE CALUMET RIVER (PHASE I)...	600,000	600,000	1,000,000
(FDP)	TELL CITY...	60,000	60,000	60,000
(COMP)	WABASH RIVER BASIN AUTH REPORT, IL...	---	50,000	50,000
	IOWA			
(FDP)	DES MOINES RIVER BANK EROSION, MO...	---	175,000	175,000
(FDP)	FOX RIVER, IA. & MO...	34,000	34,000	34,000
(FDP)	IOWA & CEDAR RIVERS, IOWA & MINN...	100,000	100,000	100,000
(FDP)	METROPOLITAN SIOUX CITY & MO. RIVER, IA., S.D., & NEB.	370,000	370,000	370,000
	KANSAS			
(FDP)	ARKANSAS RIVER, GREAT BEND, KAN. TO JOHN MARTIN DAM COL...	185,000	185,000	185,000
(FDP)	ARKANSAS RIVER, GREAT BEND, KAN. TO TULSA, OKLA...	270,000	270,000	270,000
(FDP)	GRAND (NEOSHO) RIVER, KA. & OK...	---	50,000	50,000
(FDP)	KANSAS & OSAGE RIVERS, WATER MGT. STUDY...	---	500,000	200,000
(FDP)	KANSAS RIVER & TRIBUTARIES...	216,000	500,000	500,000
(FDP)	STRANGER CREEK BASIN...	210,000	210,000	210,000
(FDP)	VERDIGRIS RIVER, OK & KA...	---	200,000	200,000
	KENTUCKY			
(FDP)	CLARKS RIVER BASIN...	---	50,000	50,000
(FDP)	CAMP GROUND LAKE (PHASE I)...	---	200,000	200,000
(N)	GREEN & BARREN RIVERS...	170,000	170,000	170,000
(N)	LOUISVILLE HARBOR...	---	50,000	50,000
(N)	LOWER CUMBERLAND & TENN RIVERS BELOW BARKLEY CANAL, KY. & TENN...	75,000	75,000	75,000
(FDP)	MISSISSIPPI RIVER - EAST BANK LEVEES, TN...	---	50,000	---
(FDP)	TUG FORK VALLEY, KY., VA., & W.V. (PHASE I)...	212,000	212,000	212,000
(FDP)	UPPER CUMBERLAND RIVER BASIN, KY. & TENN...	100,000	100,000	100,000
	LOUISIANA			
(FDP)	ALONA-RIGOLETTE AREA (RED RIVER)...	---	65,000	65,000
(N)	BAYOU MANCHAC & AMITE RIVER...	---	62,000	62,000
(N)	GULF IWW LA. & TEX. SECTION, LA. & TEX...	300,000	300,000	300,000
(FDP)	LAKE PONTCHARTRAIN, JEFFERSON PARISH...	---	50,000	50,000
(FDP)	LAKE PONTCHARTRAIN, WESTSHORE...	---	100,000	---
(FDP)	LARTO LAKE-SALINE AREA...	---	30,000	---
(FDP)	LOUISIANA COASTAL AREA...	150,000	150,000	150,000
(FDP)	MERMENTAU, VERMILION & CALCASIEU RIVERS & BAYOU TECHE.	50,000	150,000	200,000
(N)	MISSISSIPPI RIVER, BATON ROUGE TO GULF (55 FT. CHANNEL	---	---	125,000
(N)	MISSISSIPPI RIVER-GULF OUTLET ENLARGEMENT...	---	100,000	100,000
(N)	MISSISSIPPI RIVER MOORING FACILITIES...	---	60,000	60,000
(FDP)	NEW ORLEANS-BATON ROUGE METROPOLITAN AREA...	330,000	330,000	330,000
	MAINE			
(N)	EASTPORT...	40,000	65,000	65,000
(SPEC)	PASSAMAQUODDY TIDAL POWER...	510,000	610,000	610,000
(N)	PORTLAND HARBOR (DEBRIS)...	---	60,000	60,000
(FDP)	ST JOHN RIVER...	60,000	60,000	60,000
	MARYLAND			
(FDP)	BALTIMORE METROPOLITAN STREAMS...	60,000	60,000	60,000
(FDP)	BEAVERDAM CREEK & CABIN BRANCH...	98,000	98,000	---
(SPEC)	CHESAPEAKE BAY STUDY, MD. & VA...	2,840,000	2,840,000	2,840,000
(N)	CHESAPEAKE CITY BRIDGE...	80,000	80,000	80,000
(FDP)	MONONGAHELA-YOUGHIOGHENY RIVER BASIN, MD., PA. & W.V..	424,000	424,000	424,000
(FDP)	ATLANTIC COAST OF MARYLAND AND ASSATEAGUE ISLAND...	---	300,000	300,000
(N)	SMITH ISLAND...	95,000	95,000	95,000

GENERAL INVESTIGATIONS—CONTINUED

Type	Survey	Budget estimate	House allowance	Committee recommendation
	MASSACHUSETTS			
(FDP)	HOOSIC RIVER, N.Y. & VT.	---	50,000	50,000
(FDP)	HOUSATONIC RIVER BASIN, MASS. & CONN.	240,000	240,000	180,000
(N)	LYNN HARBOR	40,000	40,000	40,000
(COMP)	SOUTHEASTERN N.E. AUTH RPT, MASS., R.I. & CONN.	100,000	200,000	100,000
	MICHIGAN			
(N)	GRAND HAVEN HARBOR & GRAND RIVER	---	50,000	---
(N)	GREAT LAKES CONNECTING CHANNELS & HARBORS, MICH., ILL. IND., MINN., OH., PA., NY., WIS.	248,000	248,000	248,000
(FDP)	GREAT LAKES, PARTIC LAKES ONTARIO & ERIE, MICH., MINN. N.Y., OH., PA & WIS.	442,000	442,000	442,000
(SPEC)	GRT LAKES-ST LAWRENCE SWY. NAV SSM. EST., MICH., ILL., IND., MINN., N.Y., OH., PA & WIS.	6,450,000	7,484,000	7,484,000
(N)	LITTLE GIRLS POINT	---	50,000	50,000
(SPEC)	WATER LEVELS OF THE GREAT LAKES, MICH., ILL., IND., MINN., N.Y., OH., PA., & WIS.	847,000	1,047,000	847,000
	MINNESOTA			
(SPEC)	GREAT RIVER RESOURCE MANAGEMENT STUDY, MINN., ILL., IA., & MO.	1,000,000	1,860,000	1,400,000
(FDP)	MINNESOTA RIVER VALLEY	---	---	400,000
(N)	RESERVOIRS AT HEADWATERS OF MISSISSIPPI RIVER	100,000	100,000	100,000
	MISSISSIPPI			
(N)	BILOXI BAY, E. HARRISON CO.	---	20,000	20,000
(N)	MISSISSIPPI SOUND AND ADJACENT AREAS	335,000	335,000	335,000
(FDP)	PASCAGOULA RIVER BASIN	128,000	128,000	128,000
(N)	PEARL RIVER	---	50,000	50,000
(FDP)	SOWASHEE CREEK (MERIDIAN) (PHASE I)	---	---	150,000
	MISSOURI			
(FDP)	CAPE GIRARDEAU JACKSON METRO AREA	215,000	215,000	215,000
(FDP)	METROPOLITAN REGION OF KANSAS CITY, MO. & KANS.	150,000	150,000	150,000
(FDP)	PLATTIN CREEK	---	100,000	100,000
(FDP)	PROSPERITY LAKE (PHASE I)	252,000	252,000	252,000
(FDP)	ST GENEVIEVE	50,000	50,000	50,000
(N)	ST. LOUIS HARBOR, MO. & ILL.	350,000	350,000	350,000
(FDP)	ST. LOUIS METROPOLITAN AREA, MO. & ILL.	100,000	100,000	400,000
(FDP)	WEARS CREEK, JEFFERSON CITY (PHASE I)	---	---	50,000
(FDP)	WHITE RIVER BASIN COUNTY LINE LAKE	---	50,000	50,000
	MONTANA			
(FDP)	FLATHEAD & CLARK FORK RIVER BASINS	203,000	250,000	250,000
	NEBRASKA			
(FDP)	PLATTE RIVER AND TRIBUTARIES	---	125,000	125,000
	NEVADA			
(FDP)	TRUCKEE MEADOWS	210,000	210,000	210,000
	NEW HAMPSHIRE			
(FDP)	CONNECTICUT RIVER STREAMBANK EROSION, N.H., VT. & MASS	62,000	62,000	32,000
(N)	PORTSMOUTH HARBOR AND PISCATAQUA RIV, N.H. & ME.	100,000	100,000	100,000
(FDP)	SOUTHEASTERN NEW HAMPSHIRE	130,000	130,000	130,000
(FDP)	WINNIPESAUKEE RIVER	---	50,000	50,000
	NEW JERSEY			
(N)	BARNEGAT INLET (PHASE I)	---	100,000	100,000
(FDP)	CAMDEN METROPOLITAN AREA	130,000	130,000	130,000
(FDP)	CAPE MAY INLET - LOWER TOWNSHIP (PHASE I)	300,000	300,000	300,000
(FDP)	HACKENSACK RIVER, N.J. & N.Y.	240,000	240,000	240,000
(FDP)	PASSAIC RIVER BASIN (PHASE I)	2,300,000	3,000,000	2,300,000
(FDP)	RARITAN RIVER BASIN	195,000	195,000	195,000
(N)	RARITAN RIVER, WASHINGTON CANAL & SOUTH RIVER	20,000	20,000	20,000
(FDP)	THIRD RIVER	120,000	120,000	120,000

GENERAL INVESTIGATIONS—CONTINUED

Type	Survey	Budget estimate	House allowance	Committee recommendation
	NEW MEXICO			
(FDP)	RIO GRANDE & TRIBS. (RIO PUERCO/RIO SALADO) (PHASE I).	330,000	500,000	500,000
(FDP)	RIO GRANDE & TRIBUTARIES, N.M. & COLO.	461,000	461,000	461,000
	NEW YORK			
(N)	BIG SANDY CREEK, MEXICO BAY	---	50,000	---
(FDP)	BUFFALO METROPOLITAN AREA (TONAWANDA CREEK)	222,000	222,000	222,000
(FDP)	DELAWARE RIVER TRIBUTARIES IN NY STATE	100,000	100,000	100,000
(N)	GOWANUS CREEK CHANNEL	89,000	89,000	89,000
(N)	GREAT LAKES TO HUDSON RIVER WATERWAY	35,000	35,000	---
(FDP)	IROWDEQUOIT CREEK	150,000	150,000	150,000
(N)	LAKE ERIE TO EASTERN SEABOARD (ALL-AMERICAN TRANSPORTATION SYSTEM)	---	200,000	200,000
(SP)	LAKE ONTARIO SHORELINE PROTECTION	---	600,000	300,000
(FDP)	MORRISONVILLE AND VICINITY	80,000	80,000	80,000
(N)	OGDENSBURG HARBOR	91,000	91,000	91,000
(FDP)	OSWEGO RIVER BASIN	390,000	390,000	390,000
(N)	ST LAWRENCE SEAWAY, ADDITIONAL LOCKS	200,000	200,000	200,000
(COMP)	SUSQUEHANNA RIVER BASIN AUTH REPORT, N.Y., PA., & MD.	430,000	430,000	430,000
(FDP)	UPPER ALLEGHENY RIVER BASIN, PA	---	50,000	50,000
(FDP)	WALLKILL RIVER, BLACK DIRT AREA, N.Y. & N.J. (PHASE I)	---	140,000	140,000
(FDP)	WESTCHESTER COUNTY STREAMS, NY AND BYRAM RIVER, CONN.	229,000	229,000	129,000
	NORTH CAROLINA			
(SP)	BOGUE BANKS AND BOGUE INLET	120,000	120,000	120,000
(FDP)	LUMBER RIVER	---	162,000	162,000
(FDP)	ROANOKE RIVER (SOUTH BOSTON & VICINITY), N.C. & VA.	150,000	150,000	150,000
(FDP)	SUGAR CREEK BASIN, N.C. & S.C	88,000	88,000	88,000
(SP)	WEST ONSLOW BEACH & NEW RIVER INLET	10,000	10,000	10,000
(SP)	WRIGHTSVILLE BEACH	135,000	135,000	135,000
	NORTH DAKOTA			
(FDP)	PEMBINA RIVER (PHASE I)	---	300,000	300,000
(FDP)	RED RIVER OF THE NORTH, N.D. & MINN.	350,000	660,000	660,000
	OHIO			
(FDP)	CENTRAL OHIO SURVEY	300,000	300,000	300,000
(N)	CLEVELAND HARBOR (PHASE I)	---	300,000	300,000
(FDP)	CUYAHOGA RIVER BASIN	75,000	75,000	75,000
(N)	GALLIPOLIS LOCKS & DAM, OH. & W.V. (PHASE I)	340,000	340,000	340,000
(FDP)	GRAND LAKE, ST MARYS	---	70,000	70,000
(N)	LAKE ERIE COAST, OH., N.Y., PA., & MICH	---	350,000	250,000
(SPEC)	LAKE ERIE-WASTEWATER MGMT., OH., MICH., N.Y., PA. & IN	400,000	800,000	600,000
(N)	LORAIN HARBOR	200,000	400,000	200,000
(FDP)	MIAMI RIVER, LITTLE MIAMI RIVER & MILL CR	250,000	250,000	250,000
(N)	OHIO PORT DEVELOPMENT	---	50,000	50,000
(FDP)	WESTERN LAKE ERIE SHORE	---	200,000	200,000
	OKLAHOMA			
(FDP)	CANADIAN RIVER & TRIBUTARIES, TX. & N.M.	---	210,000	210,000
(FDP)	TENKILLER FERRY LAKE	80,000	80,000	80,000
(FDP)	TULSA URBAN STUDY	352,000	352,000	352,000
	OREGON			
(N)	COLUMBIA RIVER AT THE MOUTH, ORE & WASH	100,000	100,000	100,000
(FDP)	CROOKED RIVER	---	125,000	125,000
(FDP)	DAYS CREEK LAKE (PHASE I)	---	---	165,000
(FDP)	KLAMATH RIVER BASIN, ORE. & CAL	54,000	115,000	115,000
(MP)	MCNARY SECOND POWERHOUSE, ORE. & WASH. (PHASE I)	1,600,000	1,600,000	1,600,000
(FDP)	PORTLAND-VANCOUVER METRO AREA, WATER RESOURCES STUDY.	173,000	173,000	173,000
(N)	ROGUE RIVER AT GOLD BEACH	20,000	113,000	113,000
(FDP)	SANTIAM RIVER	---	50,000	---
(FDP)	SQUAW CREEK	---	50,000	---
(COMP)	WILLAMETTE RIVER BASIN	---	130,000	130,000
	PENNSYLVANIA			
(FDP)	CLARION RIVER ACID MINE DRAIN (PHASE I)	317,000	317,000	317,000
(FDP)	DELAWARE RIVER BASIN, PA, NJ, NY	20,000	120,000	120,000
(N)	DELAWARE RIVER DREDGING DISPOSAL STUDY, PA., N.J. & DE	100,000	100,000	100,000
(FDP)	KISKIMINITAS RIVER BASIN	---	50,000	50,000
(FDP)	LOCK HAVEN (PHASE I)	388,000	388,000	325,000
(SP)	PRESQUE ISLE PENINSULA (PHASE I)	300,000	300,000	300,000

GENERAL INVESTIGATIONS—CONTINUED

Type	Survey	Budget estimate	House allowance	Committee recommendation
(N)	SCHUYLKILL RIVER REVIEW	120,000	120,000	120,000
(FDP)	WYOMING VALLEY (PHASE I)	232,000	232,000	232,000
	PUERTO RICO			
(N)	SAN JUAN HARBOR (PHASE I)	170,000	170,000	170,000
	RHODE ISLAND			
(FDP)	PAWCATUCK RIV & NARRAGANSETT BAY DRAIN BASIN, R.I., MASS. & CONN	200,000	400,000	400,000
	SOUTH CAROLINA			
(N)	CHARLESTON HARBOR (PHASE I)	250,000	250,000	250,000
(FDP)	LYNCHES RIVER	10,000	10,000	10,000
	SOUTH DAKOTA			
(FDP)	EASTERN SOUTH DAKOTA	---	250,000	150,000
(FDP)	MISSOURI RIVER, S.D., NEB., N.D., & MONT.	250,000	250,000	250,000
(FDP)	UPPER BIG SIOUX RIVER & EASTERN S.D. WATER SUPPLY, S.D. & IA.	87,000	87,000	87,000
(FDP)	WESTERN DAKOTAS REGION OF SOUTH DAKOTA	---	350,000	250,000
	TENNESSEE			
(FDP)	MEMPHIS METROPOLITAN AREA	300,000	300,000	300,000
(FDP)	METROPOLITAN REGION OF NASHVILLE	361,000	361,000	361,000
	TEXAS			
(FDP)	BEAR CREEK	180,000	180,000	180,000
(FDP)	BRAZOS NATURAL SALT POLLUTION CONTROL (PHASE I)	70,000	300,000	300,000
(FDP)	BRAZOS RIVER & TRIBUTARIES	---	250,000	50,000
(FDP)	BUFFALO BAYOU & TRIBUTARIES	100,000	150,000	150,000
(FDP)	CLOPTON CROSSING LAKE (PHASE I)	161,000	161,000	161,000
(FDP)	COLORADO RIVER & TRIBUTARIES	260,000	260,000	260,000
(N)	COLORADO RIVER CHANNEL TO BAY CITY	54,000	54,000	54,000
(N)	CORPUS CHRISTI SHIP CHANNEL,HBR ISLAND	80,000	80,000	80,000
(FDP)	DENISON DAM-LAKE TEXOMA	---	150,000	---
(N)	GALVESTON BAY AREA NAVIGATION	305,000	305,000	305,000
(SP)	GALVESTON COUNTY SHORE EROSION	---	330,000	330,000
(N)	GUADALUPE RIVER, CHANNEL TO VICTORIA	---	30,000	30,000
(FDP)	LAKE TEXOMA WATER SUPPLY FACILITIES, TEX. & OK	50,000	50,000	50,000
(FDP)	LOWER RIO GRANDE BASIN (PHASE I)	52,000	52,000	52,000
(FDP)	LOWER SABINE RIVER	350,000	350,000	350,000
(N)	MATAGORDA SHIP CHANNEL	55,000	55,000	---
(FDP)	NUECES RIVER & TRIBUTARIES	200,000	200,000	200,000
(FDP)	PALO BLANCO CREEK & CIBOLO CREEK	77,000	77,000	77,000
(N)	SABINE RIVER NAVIGATION	---	350,000	350,000
(FDP)	SAN JACINTO RIVER & TRIBUTARIES	250,000	275,000	275,000
	UTAH			
(FDP)	JORDAN RIVER BASIN	200,000	200,000	200,000
	VIRGIN ISLANDS			
(FDP)	PUERTO RICO-VIRGIN ISLANDS PIPELINE STUDY, V.I. & P.R.	100,000	100,000	100,000
(FDP)	VIRGIN ISLANDS	64,000	64,000	64,000
	VIRGINIA			
(FDP)	CHOWAN RIVER, VA. & N.C	150,000	150,000	150,000
(N)	DEEP CREEK (NEWPORT NEWS) DISPOSAL AREA	---	80,000	80,000
(N)	HAMPTON ROADS DRIFT REMOVAL	75,000	125,000	75,000
(N)	NORFOLK HARBOR, CRANEY ISLAND	100,000	100,000	100,000
(SP)	NORFOLK VICINITY WILLOUGHBY SPIT	105,000	105,000	105,000
(FDP)	RICHMOND (PHASE I)	500,000	500,000	500,000
(FDP)	ROANOKE RIVER, UPPER BASIN	180,000	180,000	180,000
(FDP)	VIRGINIA BEACH (PHASE I)	---	200,000	200,000
(N)	WISHART POINT CHANNEL	20,000	20,000	20,000
	WASHINGTON			
(N)	BEN FRANKLIN LOCK AND DAM	---	100,000	100,000
(FDP)	CHEHALIS RIVER & TRIBUTARIES	150,000	150,000	150,000
(N)	DES MOINES SMALL BOAT HARBOR	---	20,000	---

GENERAL INVESTIGATIONS—CONTINUED

Type	Survey	Budget estimate	House allowance	Committee recommendation
(N)	EDMONDS SMALL BOAT HARBOR	---	20,000	---
(FNP)	GRAYS HARBOR, CHEHALIS & HOQUIAM RIVERS (PHASE I)	---	600,000	600,000
(COMP)	PUGET SOUND & ADJACENT WATERS	248,000	388,000	688,000
(FDP)	PUYALLUP RIVER	---	100,000	100,000
(N)	SEATTLE HARBOR, DUWAMISH WATERWAY	150,000	150,000	150,000
(FDP)	YAKIMA VALLEY, REGIONAL WATER MANAGEMENT	150,000	150,000	150,000
	WEST VIRGINIA			
(N)	BIG SANDY RIVER, W.V., KY. & VA	76,000	400,000	200,000
(FDP)	GUYANDOTTE RIVER BASIN, VIC OF LOGAN & MULLENS	110,000	110,000	110,000
(FDP)	METROPOLITAN REGION OF HUNTINGTON, W.VA.; ASHLAND, KY. AND PORTSMOUTH, OHIO	---	---	400,000
(COMP)	KANAWHA RIVER BASIN AUTH REPORT, W.V., N.C. & VA	400,000	400,000	400,000
	WISCONSIN			
(N)	HARBORS BTWN KENOSHA & KEWAUNEE	80,000	80,000	80,000
(N)	MILWAUKEE HARBOR	10,000	10,000	---
(FDP)	WISCONSIN RIVER PORTAGE	---	150,000	150,000
	TOTAL, ALL STATES	55,470,000	75,534,000	72,513,000
	NATIONWIDE STUDIES			
(SPEC)	HYDROPOWER RESOURCES STUDY	1,000,000	2,250,000	2,250,000
(SPEC)	NATIONAL WATERWAY STUDY	1,200,000	2,000,000	2,000,000
	COORDINATION STUDIES WITH OTHER AGENCIES	5,570,900	5,600,000	5,600,000
	REVIEW OF AUTHORIZED PROJECTS			
	RESTUDIES OF DEFERRED PROJECTS	287,000	287,000	432,000
	REVIEW OF COMPLETED PROJECTS (SEC. 216; PL 91-611)	498,000	498,000	498,000
	REVIEW FOR DEAUTHORIZATION (SEC. 12; PL 93-251)	125,000	125,000	125,000
	TOTAL, REVIEW OF AUTHORIZED PROJECTS	910,000	910,000	1,055,000
	COLLECTION AND STUDY OF BASIC DATA			
	STREAM GAGING (U.S. GEOLOGICAL SURVEY)	450,000	450,000	450,000
	PRECIPITATION STUDIES (NATL WEATHER SERVICE)	270,000	270,000	270,000
	INTERNATIONAL WATER STUDIES	105,000	105,000	105,000
	FLOOD PLAIN MANAGEMENT SERVICES	8,430,000	8,430,000	8,430,000
	HYDROLOGIC STUDIES	305,000	305,000	305,000
	SCIENTIFIC AND TECHNICAL INFORMATION CENTERS	160,000	160,000	160,000
	COASTAL DATA COLLECTION	1,400,000	1,400,000	1,400,000
	TRANSPORTATION SYSTEMS	300,000	300,000	300,000
	NATIONAL PROGRAM OF INSPECTION OF DAMS	16,400,000	25,000,000	25,000,000
	TOTAL, COLLECTION AND STUDY OF BASIC DATA	27,820,000	36,420,000	36,420,000
	RESEARCH AND DEVELOPMENT	17,300,000	17,300,000	17,300,000
	TOTAL, GENERAL INVESTIGATIONS	109,270,000	140,014,000	137,138,000

REVISED SURVEY CAPABILITIES

As shown in the foregoing table, the Committee has reduced the amounts for those studies listed below due to revised capabilities. Additionally, a number of survey reductions, some of which are not shown here, were made due to overall District field office capabilities. The amount of the decrease and the reason for the reduction follow:

Name of Survey	Decrease	Reason
Gulf IWW Louisiana and Texas, Section, La. and Tex.	$200,000	Reanalysis of requirements due to planning delays
Lake Pontchartrain, Westshore, La.	100,000	Do.
Housatonic River Basin, Mass. and Conn.	80,000	Surplus to fiscal year 1979 capability.
Water Levels of the Great Lakes, Michigan, Illinois, Indiana, Minnesota, New York, Ohio, Pennsylvania and Wisconsin.	290,000	Shoreline damage survey being completed for less than anticipated.
Connecticut River Streambank Erosion, New Hampshire, Vermont, Massachusetts.	30,000	Increased fiscal year 1978 funding reduces fiscal year 1979 requirement.
Passaic River Basin, (Phase I), New Jersey	700,000	Surplus to fiscal year 1979 capability.
Great Lakes to Hudson River Waterway, N.Y.	35,000	Work effort included in Lake Erie to eastern seaboard study.
Westchester County Streams, New York and Byram River, Conn.	100,000	Reduced study requirements.
Lock Haven (Phase I), Pennsylvania	63,000	Increased funding in fiscal year 1978 reduces fiscal year 1979 requirements.
Brazos River and Tributaries, Texas	200,000	Reduced scope of study.
Big Sandy River, West Virginia, Kentucky, and Virginia.	200,000	Surplus to fiscal year 1979 capability.
Milwaukee Harbor, Wisconsin	10,000	Will be completed with available funds.

MISSISSIPPI RIVER-EAST BANK LEVEE, KENTUCKY AND TENNESSEE AND LARTO LAKE SALINE AREA, LOUISIANA STUDIES

The Committee concurs with the House allowance of $50,000 for the Mississippi River-East Bank Levee and $30,000 for the Larto Lake-Saline Areas studies, but has transferred these activities to the Mississippi River and Tributaries, General Investigations program.

MINNESOTA RIVER VALLEY, MINNESOTA

An amount of $400,000 is recommended for the Minnesota River Valley, Minnesota study. This study, which was authorized under Public Law 87–639, is to be undertaken as a joint effort between the Soil Conservation Service, the State of Minnesota, and the Corps of Engineers. The Committee feels that it is important that this cooperative effort continue since the SCS has earmarked $694,000 in it's fiscal 1979 budget and the State of Minnesota has reserved $504,000 over the next 2 years.

NEW IBERIA COMMERCIAL CHANNEL

The Committee has included the full capability amount of $200,000 to expedite completion of an interim report on the feasibility of enlarging and deepening of the existing New Iberia Commercial channel.

VERDIGRIS RIVER STUDY, KANSAS AND OKLAHOMA

The Committee has provided $200,000 for fiscal year 1979 for the Verdigris River study in Kansas and Oklahoma. Within the funds

provided, $40,000 is to be used to complete the Mingo Creek portion of the study which is addressing urban flooding problems in the Tulsa, Okla. area.

PASSAIC RIVER BASIN (PHASE I), NEW JERSEY

The Committee recommendation for this highly important effort takes into consideration the overall District capability and overall unobligated balances based on the latest testimony. The Corps of Engineers is to insure that sufficient additional resources are allocated to this work as are necessary for any interim action studies and measures as contemplated in the authorization and consistent there with. There should be no delays in the work attributed to funding.

PUGET SOUND AND ADJACENT WATERS, WASHINGTON

Since early 1960, the Corps of Engineers, Seattle District, has been studying the feasibility of a variety of flood control measures in the Snohomish River Basin and particularly on the Snoqualmie River in the State of Washington. In early 1974, when previous studies had produced no politically viable alternatives, mediation was sought in an effort to provide an acceptable solution to the continuing flooding in the area. Representatives from all sides of the dispute were brought together. And, after more than 6 months of intensive bargaining, a mutually acceptable agreement was produced which laid out a framework for future flood protection of the Snohomish River Basin. Because serious flooding has continued throughout this lengthy study period, the Committee has found strong local support for the earliest possible implementation of the mediated agreement.

Accordingly, the Committee has provided an additional $300,000 for the Puget Sound and Adjacent Waters study for the U.S. Army Corps of Engineers, Seattle District, to accelerate completion of the feasibility study of the Snohomish Basin Mediated Agreement in the State of Washington. The Committee directs the Corps to make every effort to complete this work within 2 years. In providing the additional funding, the Committee expects the Seattle District to proceed with the Snohomish Mediated Plan study without substantially affecting the progress of other on-going projects in the district.

WILLAMETTE RIVER BASIN, OREGON

The Committee has provided $130,000 for the Willamette River Basin survey in Oregon, including $60,000 for the Amazon Creek and $70,000 for Tualatin River portions of the study.

BETHEL BANK STABILIZATION STUDY, ALASKA

Because of recent and continuing erosion and deterioration of the Bethel, Alaska waterfront, $65,000 from within available funds was recommended in the Second Supplemental Appropriations Bill for 1978 to initiate the study of bank stabilization and other problems prior to the onset of winter weather, thereby preventing another year's delay before preliminary study work could commence.

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The Committee recommends that the Corps of Engineers allocate from within available funds $105,000 to continue this study effort in fiscal year 1979.

CLEVELAND HARBOR, OHIO (PHASE I)

The Committee understands that existing authorization is not sufficient to allow initiation of construction of the modifications to the Cleveland Harbor project in Ohio. The project has an excellent benefit to cost ratio of 7 to 1 and is essential to the economic stability of northeastern Ohio. Further, the project has the enthusiastic support of labor, industry, and various civic groups in the area. Therefore, the Committee expects the Corps of Engineers and other executive agencies to vigorously proceed with the required actions necessary to fulfill the authorization requirements so that phase I planning can proceed at the earliest possible time.

OCEAN CITY, MD.

The Committee is aware of the serious erosion that has taken place at Ocean City, Md., in the past year and recognizes that future storms could lead to a threat to lives and extensive structural and property damages.

A study of the problem and potential solutions, being prepared by the Corps of Engineers, is nearing completion. This study could lead to an authorized beach erosion control project which would provide a long term solution. However, under normal procedures construction could not be undertaken for several years.

The Committee recognizes that there are millions of annual visitors to Ocean City and that an enormous capital investment has been made in this area. Therefore, the Corps of Engineers is directed, as an interim measure, to take every feasible action as soon as possible within the authorities currently available to mitigate the erosion problem.

RESTUDIES OF DEFERRED PROJECTS

Within the funds provided, $70,000 is to initiate the restudy of the Cannonball River at Mott, N. Dak. project which was recently removed from the inactive category because of recent flooding.

The Committee has also provided $75,000 in an effort to help resolve the environmental issues; and investigate acceptable alternatives to the authorized Lukfata Lake project, both structual and nonstructual, to alleviate the severe flooding along Glover Creek in southeastern Oklahoma.

LAKE CHARLES CHANNEL IMPROVEMENT, LOUISIANA

The Corps is to investigate and determine the authorities needed and the requirements for improvement of the Lake Charles channel to handle LNG tankers. A preliminary report should be forwarded to the Committee by October 30, 1978.

DAM SAFETY PROGRAM

The Corps of Engineers has conducted an inventory of 50,000 dams, 9,000 of which have been placed in the high hazard category. In recognition of the need to accelerate this important program, the Committee concurs with the House Committee in providing a total of $26,000,000 an increase of $8,600,000 above the budget request, for the dam safety program. The Committee agree with the House action and has also provided for increased personnel to carry out this program within the overall Committee allowance for permanent positions.

CONSTRUCTION, GENERAL

Appropriations, 1978	$1, 523, 820, 000
Budget estimate, 1979	[1] 1, 795, 595, 000
House allowance	[2] 1, 392, 515, 000
Committee recommendation	[2] 1, 354, 147, 000
Comparison:	
Budget estimate	[3] −441, 448, 000
House allowance	−38, 368, 000

[1] President's amended budget request (S. Doc. 95–109) proposed adding $521,195,000, including $519,965,000 to fully fund 17 new construction projects. On an annual incremental basis the estimate would be $1,331,389,000.
[2] Annual incremental funding.
[3] +$22,758,000 based on annual incremental funding.

The following table shows each project for which funds are recommended for advance engineering and design (planning), land acquisition, and construction. Immediately following the table, the Committee has outlined special reductions and changes made in the budgeted projects together with selected other Committee actions.

CONSTRUCTION, GENERAL

Type of project	State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	Budget estimate planning	House allowance construction	House allowance planning	Committee recommendation construction	Committee recommendation planning
	ALABAMA								
(MP)	JONES BLUFF LOCK & DAM	83,400,000	77,066,000	2,500,000	---	2,500,000	---	2,500,000	---
(M)	MOBILE HARBOR (THEODORE SHIP CHANNEL)	46,000,000	4,900,000	10,000,000	---	19,700,000	---	10,900,000	---
(M)	MONTGOMERY TO GADSDEN, COOSA RIVER CHANNEL	520,000,000	500,000	---	---	---	1,400,000	---	1,400,000
(N)	TENNESSEE-TOMBIGBEE WATERWAY, ALA. & MISS	1,410,000,000	435,847,000	142,750,000	---	156,000,000	---	156,000,000	---
	ALASKA								
(FC)	CHENA RIVER LAKES	167,000,000	103,623,000	33,000,000	---	33,000,000	---	33,000,000	---
(N)	HOONAH BOAT HARBOR	5,485,000	207,000	5,485,000	---	2,000,000	---	2,000,000	---
(N)	KAKE SMALL BOAT HARBOR	4,880,000	155,000	---	115,000	---	115,000	---	115,000
(N)	METLAKATLA HARBOR	6,971,000	195,000	6,971,000	---	2,500,000	---	2,500,000	---
(PC)	TALKEETNA	498,000	---	---	---	498,000	---	498,000	---
	ARIZONA								
(FC)	INDIAN BEND WASH	21,300,000	12,399,000	5,100,000	---	5,100,000	---	5,100,000	---
(PC)	PHOENIX & VICINITY (INCLUDING NEW RIVER) (STAGE 1)	16,700,000	14,178,000	2,522,000	---	2,522,000	---	2,522,000	---
	ARKANSAS								
(MP)	DEGRAY LAKE	71,440,000	70,390,000	1,050,000	---	1,050,000	---	1,050,000	---
(MP)	MCCLELLAN-KERR ARKANSAS RIV NAV SYSTEM, LOCKS & DAMS, ARK. & OKLA	538,000,000	505,703,000	2,500,000	---	2,500,000	---	2,500,000	---
(FC)	MCKINNEY BAYOU, ARK. & TEX	4,840,000	100,000	---	---	---	200,000	---	100,000
(MP)	NORFORK LAKE-HIGHWAY BRIDGE CONSTRUCTION	29,300,000	1,244,000	---	---	2,000,000	---	2,000,000	---
(MP)	NORFORK LAKE-POWER UNITS 3 & 4	26,400,000	410,000	---	170,000	---	170,000	---	170,000
(N)	OUACHITA & BLACK RIVERS, ARK. & LA	191,000,000	99,997,000	11,000,000	---	12,500,000	---	15,000,000	---
(FC)	PINE MOUNTAIN LAKE	44,300,000	1,246,000	---	---	---	100,000	---	100,000
(FC)	RED RIVER LEVEES & BANK STAB BELOW DENISON DAM, ARK., LA. & TEX	52,400,000	38,785,000	4,000,000	---	3,000,000	---	4,000,000	---
	CALIFORNIA								
(FC)	ALAMEDA CREEK (DEL VALLE RES)	26,985,000	26,715,000	270,000	---	270,000	---	270,000	---
(FC)	ALHAMBRA CREEK	18,500,000	---	---	---	---	200,000	---	200,000
(FC)	CORTE MADERA CREEK	16,300,000	6,970,000	140,000	---	200,000	---	140,000	---
(FC)	COTTONWOOD CREEK	310,000,000	1,350,000	---	1,000,000	---	1,000,000	---	1,000,000
(N)	CRESCENT CITY HARBOR	3,050,000	1,108,000	---	---	150,000	---	150,000	---
(FC)	CUCAMONGA CREEK	82,700,000	23,677,000	11,800,000	---	11,800,000	---	11,800,000	---
(FC)	DRY CREEK (WARM SPRINGS) LAKE & CHANNEL	220,000,000	63,182,000	35,000,000	---	45,000,000	---	45,000,000	---
(FC)	GOLETA AND VICINITY	28,700,000	---	---	200,000	---	200,000	---	---
(N)	LOS ANGELES-LONG BEACH HARBORS	19,100,000	400,000	19,100,000	---	5,000,000	---	500,000	---

(PC)	MERCED COUNTY STREAMS	64,000,000	2,408,000	---	1,300,000	---	1,300,000	---	1,300,000	
(MP)	NEW MELONES LAKE	337,000,000	277,622,000	27,000,000	---	27,000,000	---	27,000,000	---	
(N)	NOYO RIVER AND HARBOR	8,260,000	165,000	---	---	---	115,000	---	115,000	
(PC)	PAJARO RIVER	730,000	---	---	---	---	150,000	---	150,000	
(PC)	SACRAMENTO RIVER & MAJOR & MINOR TRIBUTARIES	11,900,000	11,241,000	200,000	---	200,000	---	200,000	---	
(PC)	SACRAMENTO RIVER BANK PROTECTION PROJECT	73,300,000	36,507,000	3,300,000	---	4,000,000	---	4,000,000	---	
(PC)	SACRAMENTO RIVER, CHICO LANDING TO RED BLUFF	10,600,000	6,300,000	160,000	---	180,000	---	180,000	---	
(BE)	SAN DIEGO (SUNSET CLIFFS) (SEC. A)	1,795,000	235,000	---	75,000	---	75,000	---	75,000	
(N)	SAN DIEGO RIVER & MISSION BAY	15,700,000	10,805,000	350,000	---	350,000	---	350,000	---	
(N)	SAN FRAN BAY TO STOCKTON (J.F. BALDWIN & STOCKTON SHIP CHANS)	117,000,000	8,344,000	330,000	---	350,000	---	350,000	---	
(PC)	SAN LUIS REY RIVER	17,000,000	744,000	---	420,000	---	420,000	---	420,000	
(N)	SANTA CRUZ HARBOR	2,630,000	1,912,000	85,000	---	85,000	---	---	---	
(PC)	SANTA MARIA VALLEY LEVEES	9,600,000	5,836,000	1,000,000	---	1,000,000	---	1,000,000	---	
(BE)	SURFSIDE-SUNSET & NEWPORT BEACH	11,700,000	3,914,000	2,300,000	---	2,300,000	---	2,300,000	---	
(PC)	WALNUT CREEK	57,200,000	18,831,000	3,800,000	---	3,800,000	---	3,800,000	---	
(PC)	WILDCAT & SAN PABLO CREEKS	9,800,000	505,000	---	275,000	---	275,000	---	275,000	
	COLORADO									
(PC)	BEAR CREEK LAKE	64,400,000	55,348,000	3,000,000	---	3,000,000	---	3,000,000	---	
(PC)	CHATFIELD LAKE	89,300,000	85,294,000	400,000	---	400,000	---	400,000	---	
	CONNECTICUT									
(PC)	NEW LONDON	5,850,000	1,110,000	3,200,000	---	3,200,000	---	3,200,000	---	
(PC)	PARK RIVER	57,400,000	34,224,000	14,800,000	---	14,800,000	---	14,800,000	---	
	DIST OF COLUMBIA									
(PC)	POTOMAC ESTUARY PILOT WATER TREATMENT PLANT	15,000,000	5,890,000	3,500,000	---	3,500,000	---	3,500,000	---	
	FLORIDA									
(BE)	BREVARD COUNTY	3,350,000	522,000	1,400,000	---	1,400,000	---	1,400,000	---	
(PC)	CENTRAL & SOUTHERN FLORIDA	585,000,000	236,555,000	6,500,000	---	8,500,000	---	8,500,000	---	
(PC)	DADE COUNTY	34,800,000	10,075,000	1,600,000	---	3,900,000	---	3,900,000	---	
(BE)	DUVAL COUNTY	12,700,000	6,555,000	3,000,000	---	3,000,000	---	3,000,000	---	
(PC)	FOUR RIVER BASINS	135,000,000	48,811,000	3,000,000	---	3,000,000	---	3,000,000	---	
(BE)	PALM BEACH COUNTY (REIMB)	3,600,000	931,000	1,000,000	---	1,000,000	---	1,000,000	---	
(BE)	PINELLAS COUNTY	1,980,000	1,080,000	380,000	---	380,000	---	380,000	---	
(N)	PORT EVERGLADES HARBOR (SEC. 201)	28,600,000	335,000	28,660,000	---	2,000,000	---	2,500,000	---	
(N)	ST LUCIE INLET (SEC. 201)	5,090,000	250,000	5,020,000	---	1,500,000	---	1,500,000	---	
(N)	TAMPA HARBOR (MAIN CHANNEL)	147,000,000	31,733,000	21,300,000	---	24,000,000	---	21,300,000	---	
	GEORGIA									
(MP)	HARTWELL LAKE (5TH UNIT)	18,400,000	210,000	18,400,000	---	1,500,000	---	1,500,000	---	
(MP)	RICHARD B. RUSSELL DAM & LAKE, GA. & S.C.	291,000,000	42,154,000	47,000,000	---	49,000,000	---	49,000,000	---	
(BE)	TYBEE ISLAND	2,970,000	2,030,000	310,000	---	310,000	---	310,000	---	
(MP)	WEST POINT LAKE, GA. & ALA	131,700,000	126,231,000	4,469,000	---	4,469,000	---	4,469,000	---	

Type of project	State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	Budget estimate planning	House allowance construction	House allowance planning	Committee recommendation construction	Committee recommendation planning
	HAWAII								
(M)	BARBERS POINT DEEP-DRAFT HARBOR	46,600,000	620,000	46,600,000	---	5,000,000	---	6,500,000	---
(M)	HONOLULU HARBOR	7,700,000	167,000	7,700,000	---	2,000,000	---	2,500,000	---
(FC)	IAO STREAM, MAUI	10,540,000	6,335,000	4,205,000	---	4,205,000	---	4,205,000	---
(FC)	KAHOMA STREAM	4,330,000	---	---	230,000	---	230,000	---	230,000
(M)	KIKIOLA SMALL BOAT HARBOR	582,000	---	---	---	---	50,000	---	50,000
(M)	MAALAEA SMALL BOAT HARBOR	1,206,000	---	---	---	---	65,000	---	65,000
	IDAHO								
(MP)	DWORSHAK DAM & RESERVOIR	314,000,000	301,679,000	5,400,000	---	5,400,000	---	5,400,000	---
(MP)	LEWISTON-CLARKSTON BRIDGE, IDA. & WASH	21,000,000	700,000	---	350,000	---	830,000	---	680,000
(FC)	PLACER CREEK	3,490,000	---	---	100,000	---	50,000	---	50,000
	ILLINOIS								
(FC)	BIG SWAN DRAINAGE AND LEVEE DISTRICT	8,500,000	---	---	---	---	120,000	---	---
(FC)	EAST MOLINE	9,530,000	3,435,000	1,000,000	---	1,000,000	---	600,000	---
(FC)	EAST ST. LOUIS & VICINITY	44,000,000	5,972,000	800,000	---	800,000	---	800,000	---
(FC)	ELDRED & SPANKEY DRAINAGE & LEVEE DISTRICT	8,300,000	215,000	---	125,000	---	250,000	---	250,000
(RE)	EVANSTON (REIMB)	659,000	207,000	452,000	---	452,000	---	452,000	---
(FC)	FREEPORT	10,100,000	883,000	175,000	---	175,000	---	175,000	---
(FC)	FULTON	13,900,000	9,162,000	4,100,000	---	4,100,000	---	4,100,000	---
(FC)	HARTWELL DRAINAGE & LEVEE DISTRICT	7,650,000	110,000	---	160,000	---	160,000	---	160,000
(FC)	HILLVIEW DRAINAGE AND LEVEE DISTRICT	7,720,000	---	---	---	---	120,000	---	---
(M)	ILLINOIS WATERWAY, DRESDEN ISLAND LOCK & DAM (REHAB)	8,300,000	3,160,000	2,560,000	---	2,560,000	---	1,956,000	---
(M)	ILLINOIS WATERWAY, STARVED ROCK LOCK & DAM (REHAB)	8,300,000	3,660,000	1,500,000	---	1,500,000	---	1,080,000	---
(FC)	KASKASKIA ISLAND DRAINAGE & LEVEE DISTRICT	8,100,000	875,000	---	---	900,000	---	900,000	---
(M)	KASKASKIA RIVER NAVIGATION	129,500,000	100,156,000	4,200,000	---	4,200,000	---	4,200,000	---
(FC)	LOUISVILLE LAKE	60,500,000	1,344,000	---	290,000	---	556,000	---	290,000
(FC)	MCGEE CREEK DRAINAGE & LEVEE DISTRICT	13,300,000	347,000	---	---	500,000	---	500,000	---
(FC)	MEREDOSIA, ILL. AND MEREDOSIA, WILLOW CREEK AND COON RUN DRAINAGE AND LEVEE DISTRICT	7,250,000	---	---	---	---	100,000	---	100,000
(FC)	MEREDOSIA LAKE & WILLOW CREEK DRAIN. & LEVEE DISTRICT	6,050,000	---	---	---	---	100,000	---	100,000
(FC)	MILAN	9,600,000	450,000	11,200,000	---	250,000	---	250,000	---
(M)	MISS RI BTWN THE OHIO & MO RIVERS (REGULATING WORKS), ILL. & MO	154,600,000	86,181,000	3,300,000	---	3,300,000	---	3,300,000	---
(FC)	MOLINE	16,600,000	750,000	---	200,000	---	200,000	---	200,000
(FC)	MUTWOOD DRAINAGE & LEVEE DISTRICT	6,040,000	110,000	---	180,000	---	180,000	---	180,000
(FC)	ROCK ISLAND	8,320,000	7,452,000	868,000	---	868,000	---	868,000	---
(FC)	ROCK RIVER, AREA 2, 3, 4 AND 5	16,900,000	---	---	---	---	60,000	---	60,000
(FC)	ROCKFORD	7,080,000	1,833,000	500,000	---	503,000	---	503,000	---
(M)	SAVANNA SMALL BOAT HARBOR	325,000	---	---	---	---	60,000	---	---
(M)	SMITHLAND LOCKS & DAM, ILL., IND. & KY	248,000,000	223,718,000	16,600,000	---	16,600,000	---	16,200,000	---
(FC)	SOUTH BELOIT	1,660,000	245,000	---	60,000	---	60,000	---	60,000

	INDIANA									
(FC)	BIG BLUE LAKE	85,000,000	980,000	---	270,000	---	270,000	---	270,000	
(E)	CARMELTON LOCKS & DAMS, IND. & KY.	97,900,000	97,402,000	380,000	---	250,000	---	200,000	---	
(FC)	EVANSVILLE	34,800,000	18,264,000	4,495,000	---	4,495,000	---	1,400,000	---	
(E)	NEWBURGH LOCKS & DAM, IND. & KY.	106,000,000	104,001,000	700,000	---	700,000	---	700,000	---	
(FC)	PATOKA LAKE	51,500,000	45,006,000	4,000,000	---	4,000,000	---	4,000,000	---	
(E)	UNIONTOWN LOCKS & DAM, IND. & KY.	98,400,000	97,633,000	700,000	---	700,000	---	700,000	---	
	IOWA									
(FC)	BIG SIOUX RIVER AT SIOUX CITY, IA. & S.D.	6,650,000	4,995,000	1,655,000	---	1,655,000	---	1,655,000	---	
(FC)	CLINTON	28,600,000	20,279,000	4,000,000	---	4,000,000	---	4,000,000	---	
(E)	CLINTON SMALL BOAT HARBOR	113,000	10,000	---	---	103,000	---	103,000	---	
(FC)	EVANSDALE (SEC. 201)	2,570,000	45,000	---	130,000	---	130,000	---	180,000	
(F)	MISSISSIPPI RIVER, OLD LOCK 14 (REHAB)	3,240,000	600,000	1,800,000	---	1,800,000	---	1,800,000	---	
(E)	MISSISSIPPI RIVER, OLD LOCK 19 (REHAB)	5,020,000	2,350,000	2,670,000	---	2,670,000	---	1,670,000	---	
(FC)	MISSOURI RIVER LEVEE SYSTEM, IA., NEB., KAN. & MO.	183,000,000	61,561,000	5,300,000	---	5,300,000	---	5,300,000	---	
(E)	MISSOURI RIVER, SIOUX CITY TO MOUTH, IA., KAN., MO., NEB.	438,000,000	414,401,000	2,900,000	---	2,900,000	---	2,900,000	---	
(FC)	RED ROCK DAM-LAKE RED ROCK (RECREATIONAL DEV.)	5,180,000	1,000,000	---	---	1,500,000	---	1,000,000	---	
(FC)	SAYLORVILLE LAKE	96,600,000	85,232,000	3,400,000	---	3,400,000	---	3,400,000	---	
(FC)	WATERLOO	38,900,000	27,152,000	5,000,000	---	5,000,000	---	5,000,000	---	
	KANSAS									
(FC)	BIG HILL LAKE	15,000,000	4,717,000	4,500,000	---	4,500,000	---	4,500,000	---	
(FC)	CEDAR POINT LAKE	29,800,000	950,000	---	50,000	---	50,000	---	---	
(FC)	CLINTON LAKE	57,000,000	51,847,000	3,000,000	---	3,000,000	---	1,000,000	---	
(FC)	EL DORADO LAKE	76,500,000	48,743,368	13,600,000	---	13,600,000	---	13,600,000	---	
(FC)	HILLSDALE LAKE	58,400,000	30,086,000	13,200,000	---	13,200,000	---	13,200,000	---	
(FC)	KANSAS CITY (1962 MODIFICATION)	28,500,000	24,169,000	900,000	---	900,000	---	900,000	---	
(FC)	PERRY LAKE AREA (ROAD IMPROVEMENTS)	5,740,000	5,340,000	400,000	---	400,000	---	400,000	---	
(FC)	TOWANDA LAKE	61,300,000	322,000	---	300,000	---	300,000	---	300,000	
(FC)	TUTTLE CREEK LAKE, ROAD & BRIDGE (1976 ACT)	630,000	---	---	---	---	35,000	---	---	
(FC)	TUTTLE CREEK LAKE, ROAD IMPROVEMENT	500,000	3,000	---	---	50,000	---	---	---	
	KENTUCKY									
(FC)	BIG SANDY RIVER, DAM NO. 3, KY. & W.VA.	500,000	317,000	---	---	183,000	---	---	---	
(FC)	BIG SOUTH FORK NATIONAL RIVER & RECREATION AREA, KY & TN	140,000,000	2,910,000	140,000,000	---	20,000,000	---	20,000,000	---	
(FC)	CAVE RUN LAKE	64,100,000	58,000,000	2,700,000	---	2,700,000	---	2,700,000	---	
(FC)	DAYTON	8,400,000	2,868,000	1,900,000	---	1,900,000	---	1,400,000	---	
(FC)	FALMOUTH LAKE	121,000,000	936,000	---	---	---	200,000	---	200,000	
(MP)	LAUREL RIVER LAKE	53,400,000	44,855,000	1,850,000	---	1,850,000	---	1,350,000	---	
(FC)	PAINTSVILLE LAKE	43,100,000	21,103,000	8,100,000	---	8,100,000	---	8,100,000	---	
(FC)	SOUTHWESTERN JEFFERSON COUNTY	43,900,000	14,019,000	7,300,000	---	7,300,000	---	6,100,000	---	
(FC)	TAYLORSVILLE LAKE	81,500,000	25,320,000	7,200,000	---	7,200,000	---	7,200,000	---	
(MP)	WOLF CREEK DAM - LAKE CUMBERLAND (REHAB)	119,000,000	83,800,000	20,000,000	---	20,000,000	---	15,000,000	---	
(FC)	YATESVILLE LAKE	57,200,000	11,520,000	---	---	4,000,000	---	4,000,000	---	

Type of project	State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	Budget estimate planning	House allowance construction	House allowance planning	Committee recommendation construction	Committee recommendation planning
	LOUISIANA								
(M)	ATCHAFALAYA RIVER & BAYOUS CHENE, BOEUF, & BLACK	24,200,000	16,548,000	7,652,000	---	7,652,000	---	7,652,000	---
(PC)	BAYOU BODCAU AND TRIBUTARIES	15,500,000	4,487,000	---	---	2,200,000	---	2,200,000	---
(PC)	GRAND ISLE & VICINITY (SEC. 201)	7,640,000	100,000	---	150,000	---	200,000	---	200,000
(PC)	LAROSE TO GOLDEN MEADOW (HURRICANE PROTECTION)	29,900,000	9,662,000	6,000,000	---	6,000,000	---	6,000,000	---
(M)	MERMENTAU RIVER	4,790,000	2,560,000	1,330,000	---	1,330,000	---	1,330,000	---
(M)	MISS RIVER BATON ROUGE-GULF MEXICO-SW PASS & BAR	89,200,000	9,505,000	600,000	---	600,000	---	600,000	---
(M)	MISSISSIPPI RIVER OUTLETS, VICINITY OF VENICE	5,600,000	4,724,000	876,000	---	876,000	---	876,000	---
(M)	MISSISSIPPI RIVER, GULF OUTLET	368,000,000	70,985,000	1,000,000	---	1,000,000	---	1,000,000	---
(PC)	NEW ORLEANS TO VENICE (HURRICANE PROTECTION)	98,600,000	41,446,000	1,200,000	---	1,200,000	---	1,200,000	---
(M)	OVERTON-RED RIVER WATERWAY (LOWER 31 MILES ONLY)	23,300,000	11,691,000	2,200,000	---	2,200,000	---	2,200,000	---
(M)	PETIT ANSE, TIGRE AND CARLIN BAYOUS	3,000,000	---	---	---	---	50,000	---	50,000
(M)	RED RIVER EMERGENCY BANK PROTECTION, LA., ARK., OKLA., & TEX	47,700,000	28,688,000	3,900,000	---	4,400,000	---	4,400,000	---
(M)	RED RIVER WATERWAY, MISSISSIPPI RIVER TO SHREVEPORT	995,000,000	89,238,000	40,000,000	---	45,000,000	---	56,000,000	---
(PC)	RED RIVER WATERWAY, SHREVEPORT, TO VICINITY OF INDEX	134,000,000	310,000	---	200,000	---	300,000	---	300,000
(M)	VERMILION LOCK	22,300,000	800,000	---	---	500,000	---	500,000	---
	MAINE								
(MP)	DICKEY-LINCOLN SCHOOL LAKES	559,000,000	8,794,000	---	1,756,000	---	---	---	1,756,000
(M)	JONESPORT HARBOR (SEC. 201)	4,950,000	110,000	---	140,000	---	140,000	---	140,000
	MARYLAND								
(M)	BALTIMORE HARBOR & CHANNELS, MD. & VA. (50 FEET)	135,000,000	720,000	---	230,000	---	230,000	---	230,000
(PC)	BLOOMINGTON LAKE, MD & WV	156,000,000	99,081,000	26,000,000	---	26,000,000	---	26,000,000	---
	MASSACHUSETTS								
(M)	CAPE COD CANAL HIGHWAY BRIDGES (REHAB)	14,000,000	---	500,000	---	500,000	---	500,000	---
(PC)	CHARLES RIVER NATURAL VALLEY STORAGE AREAS	9,800,000	3,959,000	2,500,000	---	2,500,000	---	2,500,000	---
(PC)	NORTH NASHUA RIVER	2,300,000	300,000	2,300,000	---	1,350,000	---	1,350,000	---
	MICHIGAN								
(M)	CEDAR RIVER HARBOR	1,490,000	50,000	---	---	100,000	---	---	---
(M)	CROSS VILLAGE HARBOR	2,200,000	---	---	---	---	70,000	---	70,000
(M)	LUDINGTON HARBOR	5,860,000	4,591,000	1,269,000	---	1,269,000	---	1,269,000	---
(M)	MUSKEGON HARBOR (REHAB)	4,330,000	1,550,000	2,410,000	---	2,410,000	---	1,665,000	---
(PC)	RED RUN DRAIN & LOWER CLINTON RIVER	242,000,000	2,100,000	---	900,000	---	900,000	---	900,000
(PC)	SAGINAW RIVER	58,000,000	19,243,000	430,000	---	430,000	---	430,000	---

	MINNESOTA									
(PC)	BASSETT CREEK	9,240,000	---	---	200,000	---	200,000	---	200,000	
(PC)	CHASKA	11,800,000	---	---	200,000	---	200,000	---	200,000	
(PC)	MANKATO & NORTH MANKATO	55,500,000	25,940,000	7,800,000	---	7,800,000	---	7,800,000	---	
(N)	MISSISSIPPI RIVER, LOCK & DAM 1 (REHAB)	24,800,000	1,000,000	5,300,000	---	5,300,000	---	5,300,000	---	
(PC)	ROCHESTER (PHASE I)	2,100,000	479,000	---	300,000	---	300,000	---	300,000	
(PC)	ROSEAU RIVER	16,500,000	2,114,000	900,000	---	900,000	---	900,000	---	
(PC)	TWIN VALLEY LAKE	19,500,000	1,700,000	---	---	---	300,000	---	---	
(N)	TWO HARBORS	260,000	26,000	260,000	---	159,000	---	159,000	---	
(PC)	WILD RICE RIVER-SOUTH BRANCH & FELTON DITCH	4,100,000	400,000	---	---	1,000,000	---	1,000,000	---	
(PC)	WINONA	29,920,000	1,083,000	25,920,000	---	2,000,000	---	2,000,000	---	
	MISSISSIPPI									
(PC)	TALLAHALA CREEK LAKE	60,000,000	8,332,000	5,500,000	---	5,500,000	---	---	---	
(N)	YAZOO RIVER, BELZONI BRIDGE (ADVANCE PREPARATION)	9,200,000	800,000	2,300,000	---	2,300,000	---	2,300,000	---	
(N)	YAZOO RIVER	140,000,000	100,000	---	200,000	---	400,000	---	400,000	
	MISSOURI									
(PC)	BLUE RIVER CHANNEL	114,000,000	1,411,000	114,000,000	---	500,000	---	1,000,000	---	
(MP)	CLARENCE CANNON DAM & RESERVOIR	225,000,000	179,514,000	11,050,000	---	11,050,000	---	11,050,000	---	
(MP)	HARRY S TRUMAN DAM & RESERVOIR	450,000,000	379,607,000	33,000,000	---	33,000,000	---	33,000,000	---	
(PC)	LITTLE BLUE RIVER CHANNEL	29,700,000	15,644,000	4,700,000	---	4,700,000	---	4,700,000	---	
(PC)	LITTLE BLUE RIVER LAKES	112,000,000	30,492,000	9,500,000	---	9,500,000	---	9,500,000	---	
(PC)	LONG BRANCH LAKE	20,700,000	18,118,000	900,000	---	900,000	---	900,000	---	
(PC)	MERAMEC PARK LAKE	167,000,000	30,568,000	---	---	12,000,000	---	12,000,000	---	
(PC)	MISSISSIPPI RIVER, AGRICULTURAL AREA NO. 8 (ELSBERRY)	1,900,000	675,000	---	---	---	---	400,000	---	
(PC)	PERRY COUNTY DRAINAGE & LEVEE DISTRICTS 1,2,&3	4,700,000	1,030,000	1,000,000	---	1,000,000	---	1,000,000	---	
(PC)	PINE FORD LAKE	91,900,000	1,905,000	---	100,000	---	900,000	---	100,000	
(PC)	SMITHVILLE LAKE	80,300,000	66,543,000	7,900,000	---	7,900,000	---	7,900,000	---	
	MONTANA									
(PC)	FLATHEAD RIVER NEAR KALISPELL	3,820,000	---	---	---	---	100,000	---	100,000	
(PC)	GREAT FALLS	7,900,000	665,000	3,600,000	---	3,600,000	---	3,600,000	---	
(MP)	LIBBY ADDITIONAL UNITS & REREGULATING DAM	225,000,000	17,170,000	21,000,000	---	21,000,000	---	21,000,000	---	
(MP)	LIBBY DAM, LAKE KOOCANUSA	488,000,000	468,716,000	5,755,000	---	5,755,000	---	5,755,000	---	
	NEBRASKA									
(PC)	PAPILLION CREEK & TRIBUTARIES LAKES	56,600,000	29,562,000	100,000	---	100,000	---	100,000	---	
	NEVADA									
(PC)	HUMBOLDT RIVER & TRIBUTARIES	34,200,000	823,000	---	---	---	50,000	---	---	
	NEW JERSEY									
(PC)	ELIZABETH	32,100,000	13,570,000	3,500,000	---	3,500,000	---	3,500,000	---	
(N)	MANASQUAN RIVER (REHAB)	4,650,000	---	1,150,000	---	1,150,000	---	1,150,000	---	

Type of project	State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	Budget estimate planning	House allowance construction	House allowance planning	Committee recommendation construction	Committee recommendation planning
	NEW MEXICO								
(FC)	ABIQUIU DAM (REHAB)	4,000,000	250,000	2,200,000	---	2,200,000	---	2,200,000	---
(FC)	LOS ESTEROS LAKE	27,200,000	23,180,000	3,445,000	---	3,445,000	---	3,445,000	---
(FC)	RIO GRANDE FLOODWAY (TRUTH OR CONSEQUENCES UNIT)	13,300,000	---	---	---	---	---	---	50,000
(FC)	SANTA FE RIVER & ARROYO MASCARAS	4,230,000	50,000	---	190,000	---	190,000	---	190,000
	NEW YORK								
(FC)	ARDSLEY (SEC. 201)	1,910,000	---	---	100,000	---	100,000	---	100,000
(N)	CATTARAUGUS HARBOR	3,660,000	525,000	---	---	1,640,000	---	---	---
(FC)	DANSVILLE & VICINITY	1,700,000	235,000	---	70,000	---	70,000	---	70,000
(N)	DUNKIRK HARBOR	2,360,000	350,000	---	---	650,000	---	650,000	---
(BE)	EAST ROCKAWAY INLET - ROCKAWAY INLET & JAMAICA BAY (PART I)	15,600,000	8,725,000	1,000,000	---	1,000,000	---	1,000,000	---
(FC)	ELLICOTT CREEK	12,000,000	1,124,000	---	---	1,000,000	---	1,000,000	---
(FC)	FIRE ISLAND TO MONTAUK POINT	109,000,000	4,921,000	---	---	200,000	---	---	200,000
(N)	IRONDEQUOIT BAY	2,490,000	382,000	100,000	---	100,000	---	100,000	---
(N)	MORICHES INLET	13,600,000	570,000	---	160,000	---	160,000	---	160,000
(N)	NEW YORK HARBOR COLLECTION & REMOVAL OF DRIFT, NY & NJ	39,700,000	7,775,000	3,000,000	---	4,000,000	---	4,000,000	---
(N)	PORT ONTARIO HARBOR	5,100,000	513,000	---	90,000	---	130,000	---	90,000
(FC)	SAW MILL RIVER AT ELMSFORD & GREENBURGH	3,730,000	225,000	---	200,000	---	200,000	---	200,000
(FC)	SCAJAQUADA CREEK	3,260,000	2,350,000	500,000	---	500,000	---	500,000	---
(N)	SHOOTERS ISLAND, N.Y. & N.J.	57,700,000	---	---	---	---	200,000	---	50,000
(FC)	YONKERS	12,500,000	5,278,000	3,500,000	---	3,500,000	---	3,500,000	---
	NORTH CAROLINA								
(N)	AIWW - REPLACEMENT OF FEDERAL HIGHWAY BRIDGES	27,600,000	3,480,000	2,600,000	---	2,600,000	---	2,600,000	---
(FC)	B. EVERETT JORDAN DAM & LAKE	103,000,000	77,688,000	10,000,000	---	10,000,000	---	10,000,000	---
(FC)	FALLS LAKE	100,000,000	47,361,000	19,500,000	---	20,800,000	---	20,600,000	---
(N)	MANTEO (SHALLOWBAG) BAY	47,700,000	510,000	---	210,000	---	210,000	---	210,000
(N)	MASONBORO INLET JETTIES	11,300,000	3,065,000	4,000,000	---	4,000,000	---	4,000,000	---
(FC)	RANDLEMAN LAKE	68,800,000	1,885,000	---	540,000	---	540,000	---	540,000
	NORTH DAKOTA								
(FC)	BURLINGTON DAM	92,600,000	4,700,000	---	---	1,600,000	---	1,600,000	---
(MP)	GARRISON DAM & LAKE SAKAKAWEA	294,800,000	294,053,000	747,000	---	747,000	---	747,000	---
(FC)	MISSOURI RIVER, GARRISON DAM TO LAKE OAHE	9,200,000	8,985,000	100,000	---	100,000	---	100,000	---
(FC)	SHEYENNE RIVER	---	785,000	---	530,000	---	675,000	---	675,000

	OHIO									
(FC)	ALUM CREEK LAKE	53,300,000	49,356,000	500,000	---	500,000	---	500,000	---	
(FC)	CAESAR CREEK LAKE	51,900,000	47,720,000	1,600,000	---	1,600,000	---	1,600,000	---	
(FC)	CHILLICOTHE	13,100,000	3,366,000	2,000,000	---	2,000,000	---	2,000,000	---	
(N)	CLEVELAND HARBOR (REHAB)	9,580,000	---	3,000,000	---	3,000,000	---	3,000,000	---	
(FC)	CUYAHOGA RIVER BASIN	4,800,000	520,000	1,750,000	---	1,750,000	---	750,000	---	
(FC)	EAST FORK LAKE	46,400,000	42,146,000	2,500,000	---	2,500,000	---	2,500,000	---	
(N)	GENEVA-ON-THE-LAKE	1,550,000	150,000	---	---	---	100,000	---	100,000	
(FC)	MILL CREEK	108,000,000	3,896,000	650,000	---	650,000	---	650,000	---	
(FC)	MUSKINGUM RIVER LAKES (REHAB)	47,500,000	1,960,000	2,800,000	---	2,800,000	---	2,800,000	---	
(FC)	NEWARK	4,110,000	1,903,000	700,000	---	700,000	---	700,000	---	
(FC)	POINT PLACE	6,320,000	410,000	6,320,000	---	300,000	---	300,000	---	
(N)	WEST HARBOR	1,840,000	245,000	---	75,000	---	75,000	---	75,000	
	OKLAHOMA									
(FC)	ARCADIA LAKE	56,900,000	1,701,000	---	528,000	1,028,000	---	1,028,000	---	
(FC)	ARKANSAS-RED RIVER BASINS CHLORIDE CONTROL, OKLA., TEX. & KAN	598,450,000	15,118,000	---	5,782,000	---	5,782,000	---	6,662,000	
(N)	BIG AND LITTLE SALLISAW CREEKS	1,600,000	50,000	---	---	---	60,000	---	60,000	
(FC)	CANDY LAKE	23,700,000	3,073,000	1,900,000	---	2,500,000	---	1,900,000	---	
(FC)	CLAYTON LAKE	48,100,000	16,750,000	8,200,000	---	8,200,000	---	8,200,000	---	
(FC)	COPAN LAKE	65,100,000	43,568,000	12,450,000	---	12,450,000	---	12,450,000	---	
(MP)	FORT GIBSON LAKE-POWER UNITS 5 & 6	15,000,000	511,000	---	220,000	---	220,000	---	220,000	
(FC)	LUKFATA LAKE	34,000,000	1,450,000	---	---	---	150,000	---	---	
(FC)	OPTIMA LAKE	45,700,000	44,191,000	1,509,000	---	1,509,000	---	1,509,000	---	
(FC)	RED RIVER BASIN CHLORIDE CONTROL (EXCEPT AREA VIII)	108,000,000	---	---	---	2,000,000	---	---	---	
(FC)	SHIDLER LAKE	21,900,000	533,000	---	---	450,000	---	---	---	
(FC)	SKIATOOK LAKE	79,300,000	26,400,000	12,300,000	---	13,000,000	---	12,300,000	---	
(FC)	WAURIKA LAKE	64,900,000	62,221,000	2,679,000	---	2,679,000	---	2,679,000	---	
	OREGON									
(FC)	APPLEGATE LAKE	82,500,000	15,817,000	17,400,000	---	19,000,000	---	20,000,000	---	
(MP)	BONNEVILLE SECOND POWERHOUSE, OR & WA	577,000,000	180,504,000	115,000,000	---	115,000,000	---	118,000,000	---	
(N)	COOS BAY	23,500,000	20,200,000	3,300,000	---	3,300,000	---	---	---	
(MP)	LOST CREEK LAKE	152,000,000	131,694,000	2,500,000	---	2,500,000	---	2,500,000	---	
(FC)	LOWER COLUMBIA RIVER BANK PROTECTION, OR & WA	17,600,000	9,644,000	728,000	---	1,600,000	---	1,600,000	---	
(MP)	MCNARY LOCK & DAM, LAKE WALLULA, OR & WA	322,200,000	300,547,000	7,400,000	---	7,400,000	---	7,400,000	---	
(MP)	STRUBE LAKE & COUGAR ADDITIONAL UNIT	58,500,000	725,000	---	600,000	---	1,100,000	---	750,000	
(N)	TILLAMOOK BAY AND BAR	21,300,000	17,172,000	4,128,000	---	4,128,000	---	4,128,000	---	
(N)	UMPQUA RIVER	---	---	---	---	---	---	2,000,000	---	
(FC)	WILLAMETTE RIVER BASIN BANK PROTECTION	20,600,000	17,017,000	500,000	---	500,000	---	500,000	---	
(FC)	WILLOW CREEK LAKE	19,250,000	691,000	---	---	500,000	---	500,000	---	
	PENNSYLVANIA									
(FC)	BLUE MARSH LAKE	62,900,000	57,002,000	5,898,000	---	5,898,000	---	5,898,000	---	
(FC)	CHARTIERS CREEK	29,300,000	25,869,000	500,000	---	500,000	---	---	---	
(FC)	CONANESQUE LAKE	101,000,000	69,730,000	19,000,000	---	19,000,000	---	19,000,000	---	
(FC)	RAY CREEK, HIRSBORO	1,990,000	80,000	---	185,000	---	185,000	---	135,000	

Type of project	State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	Budget estimate planning	House allowance construction	House allowance planning	Committee recommendation construction	Committee recommendation planning
(M)	MONONGAHELA RIVER LOCKS & DAM 3 (REHAB)	13,300,000	2,000,000	7,800,000	---	7,800,000	---	7,800,000	---
(BE)	PRESQUE ISLE PENINSULA	8,646,000	5,196,000	450,000	---	450,000	---	750,000	---
(PC)	TAMAQUA	4,600,000	300,000	---	150,000	---	150,000	---	150,000
(PC)	TIOGA - HAMMOND LAKES	173,500,000	166,485,000	5,700,000	---	5,700,000	---	5,700,000	---
(MP)	TOCKS ISLAND LAKE, PA, NJ, & NY	429,000,000	65,849,000	500,000	---	3,500,000	---	3,500,000	---
(PC)	TYRONE	36,800,000	6,656,000	1,000,000	---	1,000,000	---	1,009,000	---
	PUERTO RICO								
(M)	PONCE HARBOR	4,250,000	---	---	100,000	---	100,000	---	100,000
(PC)	PORTUGUES & BUCANA RIVERS	147,000,000	18,642,000	8,300,000	---	8,300,000	---	8,300,000	---
	RHODE ISLAND								
(M)	BRISTOL HARBOR	2,850,000	---	---	---	---	50,000	---	50,000
	SOUTH CAROLINA								
(M)	COOPER RIVER, CHARLESTON HARBOR	107,000,000	11,528,000	7,500,000	---	7,500,000	---	8,500,000	---
(M)	LITTLE RIVER INLET, S.C. & N.C	10,600,000	1,100,000	---	---	---	---	1,000,000	---
(M)	MURRELLS INLET	13,500,000	6,207,000	4,923,000	---	4,923,000	---	4,923,000	---
	TEXAS								
(PC)	AQUILLA LAKE	38,200,000	13,560,000	5,600,000	---	5,600,000	---	5,600,000	---
(PC)	ARKANSAS-RED RIVER BASINS CHLORIDE CONTROL, AREA VIII	39,000,000	7,440,000	4,100,000	---	4,100,000	---	4,100,000	---
(PC)	AUBREY LAKE	196,000,000	5,720,000	1,000,000	---	1,000,000	---	1,000,000	---
(PC)	BAYTOWN	17,100,000	200,000	---	200,000	---	200,000	---	200,000
(PC)	BIG PINE LAKE	37,700,000	1,371,000	---	---	900,000	---	900,000	---
(PC)	BIG SANDY LAKE	73,000,000	---	---	---	---	75,000	---	---
(PC)	BIG SPRING	3,560,000	291,000	---	150,000	---	150,000	---	---
(M)	BRAZOS ISLAND HARBOR (1960 HARBOR)	15,600,000	32,000	---	---	500,000	---	500,000	---
(PC)	BUFFALO BAYOU & TRIBS	101,000,000	56,541,000	380,000	---	380,000	---	380,000	---
(PC)	BUFFALO BAYOU & TRIBUTARIES-ADDICKS & BARKER DAMS, (REHAB)	18,000,000	7,000,000	6,000,000	---	8,000,000	---	8,000,000	---
(PC)	CARL L. ESTES DAM & LAKE	185,000,000	1,433,000	---	150,000	---	150,000	---	150,000
(PC)	CLEAR CREEK	33,000,000	1,298,000	---	---	---	200,000	---	200,000
(PC)	COOPER LAKE & CHANNELS	74,700,000	22,364,000	9,400,000	---	9,400,000	---	8,900,000	---
(N)	CORPUS CHRISTI SHIP CHANNEL	42,000,000	19,449,000	1,700,000	---	1,700,000	---	1,700,000	---
(PC)	EL PASO	48,500,000	18,654,000	3,300,000	---	3,300,000	---	3,300,000	---
(PC)	FREEPORT & VICINITY (HURRICANE FLOOD PROTECTION)	28,000,000	25,387,000	2,300,000	---	2,300,000	---	2,300,000	---
(M)	GIWW-CHOCOLATE BAYOU	2,300,000	698,000	1,602,000	---	1,602,000	---	1,602,000	---
(PC)	HIGHLAND BAYOU	13,300,000	7,574,000	1,300,000	---	1,300,000	---	1,300,000	---
(PC)	LAKE BROWNWOOD (MODIFICATION)	9,030,000	825,000	---	---	900,000	---	---	---

(FC)	LAKEVIEW LAKE	235,000,000	14,845,000	11,000,000	---	18,000,000	---	18,000,000	---
(FC)	LAVON LAKE MODIFICATION & EAST FORK CHANNEL IMPROVEMENT	64,500,000	58,421,000	1,000,000	---	1,000,000	---	1,000,000	---
(FC)	LEWISVILLE DAM (REHAB)	3,294,000	---	1,000,000	---	1,000,000	---	1,000,000	---
(FC)	MILLICAN LAKE	189,000,000	2,153,000	---	300,000	---	---	---	---
(N)	MOUTH OF COLORADO RIVER	9,800,000	720,000	---	120,000	1,000,000	---	---	120,000
(FC)	NECHES RIVER & TRIBUTARIES SALT WATER BARRIER	15,800,000	100,000	---	240,000	---	240,000	---	240,000
(FC)	PLAINVIEW	7,960,000	440,000	---	150,000	---	150,000	---	150,000
(FC)	PORT ARTHUR & VICINITY (HURRICANE FLOOD PROTECTION)	69,600,000	50,404,000	5,800,000	---	5,800,000	---	5,800,000	---
(FC)	SAN ANTONIO CHANNEL IMPROVEMENT	46,900,000	26,028,000	800,000	---	800,000	---	800,000	---
(FC)	SAN GABRIEL RIVER	119,000,000	77,718,000	7,500,000	---	7,500,000	---	7,500,000	---
(FC)	TAYLORS BAYOU	24,100,000	1,335,000	---	---	100,000	---	---	100,000
(FC)	TEXAS CITY & VICINITY (HURRICANE FLOOD PROTECTION)	30,000,000	25,251,000	1,600,000	---	1,600,000	---	1,600,000	---
(N)	TEXAS CITY CHANNEL INDUSTRIAL CANAL	7,400,000	324,000	700,000	---	1,500,000	---	1,500,000	---
(FC)	THREE RIVERS	4,920,000	494,000	---	---	750,000	---	150,000	---
(FC)	TRINITY RIVER PROJECT	868,000,000	10,304,000	---	700,000	---	700,000	---	700,000
(FC)	VINCE & LITTLE VINCE BAYOUS	11,600,000	4,984,000	1,135,000	---	1,135,000	---	1,135,000	---
	VIRGINIA								
(FC)	FOURMILE RUN	50,000,000	36,537,000	9,500,000	---	9,500,000	---	9,500,000	---
(FC)	GATHRIGHT LAKE	73,700,000	65,566,000	8,134,000	---	8,134,000	---	8,134,000	---
(FC)	HAYSI LAKE	---	---	---	---	350,000	---	---	---
(FC)	RICHMOND FILTRATION PLANT	4,770,000	75,000	---	100,000	---	100,000	---	100,000
(N)	ELIZABETH RIVER, SOUTHERN BRANCH (SEC. 201)	5,272,000	125,000	---	---	1,000,000	---	2,000,000	---
(FC)	VIRGINIA BEACH, CANAL NO. 2 (SEC. 201)	1,300,000	---	---	---	---	100,000	---	100,000
(BE)	VIRGINIA BEACH (REIMB)	4,780,000	2,084,000	200,000	---	200,000	---	200,000	---
	WASHINGTON								
(N)	BLAIR AND SITCUM WATERWAYS	19,900,000	100,000	---	---	100,000	---	---	100,000
(N)	CHEHALIS RIVER AT SOUTH ABERDEEN, COSMOPOLIS, WASH. (SEC. 201)	12,200,000	---	---	---	---	---	---	200,000
(MP)	CHIEF JOSEPH DAM ADDITIONAL UNITS	323,000,000	241,744,000	41,000,000	---	41,000,000	---	41,000,000	---
(MP)	ICE HARBOR ADDITIONAL UNITS	38,500,000	32,324,000	1,500,000	---	1,500,000	---	1,500,000	---
(MP)	LITTLE GOOSE ADDITIONAL UNITS	57,000,000	52,527,000	1,500,000	---	1,500,000	---	2,400,000	---
(MP)	LOWER GRANITE ADDITIONAL UNITS	47,400,000	46,974,000	426,000	---	426,000	---	426,000	---
(MP)	LOWER GRANITE LOCK & DAM	306,500,000	302,368,000	4,132,000	---	4,132,000	---	4,132,000	---
(MP)	LOWER MONUMENTAL ADDITIONAL UNITS	53,300,000	46,901,000	1,800,000	---	1,803,000	---	2,600,000	---
(MP)	LOWER SNAKE RIVER F&W COMPENSATION PLAN	78,156,000	1,500,000	78,156,000	---	5,200,000	---	5,200,000	---
(FC)	SKAGIT RIVER & LEVEE CHANNEL IMPROVEMENT	15,100,000	900,000	---	300,000	---	300,000	---	300,000
(FC)	WILLAPA RIVER AT RAYMOND	1,810,000	33,000	---	100,000	---	100,000	---	100,000
	WEST VIRGINIA								
(FC)	BIG SANDY RIVER, INCLUDING TUG & LEVISA FORKS, SNAGGING & CLEARING, CHANNELIZATION & DREDGING PROJECT, W.VA. & KY	10,000,000	---	---	---	10,000,000	---	10,000,000	---
(FC)	BEECH FORK LAKE	35,900,000	32,634,000	900,000	---	900,000	---	900,000	---
(FC)	BURNSVILLE LAKE	46,500,000	38,820,000	1,200,000	---	1,200,000	---	1,200,000	---

CONSTRUCTION, GENERAL—CONTINUED

Type of project	State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	Budget estimate planning	House allowance construction	House allowance planning	Committee recommendation construction	Committee recommendation planning
(PC)	EAST LYNN LAKE	35,500,000	32,636,000	1,100,000	---	1,100,000	---	1,100,000	---
(PC)	OCEANA	3,280,000	200,000	---	100,000	---	100,000	---	100,000
(PC)	R.D. BAILEY LAKE	175,000,000	158,843,000	8,000,000	---	8,000,000	---	8,000,000	---
(PC)	STONEWALL JACKSON LAKE	109,000,000	8,955,000	6,400,000	---	6,400,000	---	6,400,000	---
	WISCONSIN								
(N)	GREEN BAY HARBOR	1,470,000	---	---	---	---	110,000	---	110,000
(PC)	LA FARGE LAKE & CHANNEL IMP	55,400,000	17,972,000	---	---	1,000,000	---	---	---
(PC)	PRAIRIE DU CHIEN	3,933,000	380,000	3,933,000	---	500,000	---	500,000	---
	MISCELLANEOUS								
	SMALL NAVIGATION PROJECTS (SEC. 107)	---	---	5,500,000	---	8,000,000	---	8,000,000	---
	SMALL FLOOD CONTROL PROJECTS (SEC. 205)	---	---	14,000,000	---	17,000,000	---	17,000,000	---
	SMALL BEACH EROSION PROJECTS (SEC. 103)	---	---	1,000,000	---	1,500,000	---	1,500,000	---
	EMERGENCY STREAMBANK AND SHORELINE PROTECTION (SEC. 14)	---	---	3,000,000	---	3,000,000	---	3,000,000	---
	RECREATION FACILITIES AT COMPLETED PROJECTS	---	---	18,000,000	---	18,000,000	---	18,000,000	---
	SNAGGING AND CLEARING (SEC. 208)	---	---	500,000	---	500,000	---	500,000	---
	MITIGATION OF SHORE DAMAGES ATTRIBUTABLE TO NAVIGATION PROJECTS (SEC. 111)	---	---	1,300,000	---	1,300,000	---	1,300,000	---
	DRIFT AND DEBRIS REMOVAL PROGRAM (SEC. 202-WRDA 1976)	---	---	---	---	---	50,000	---	---
	STREAMBANK EROSION CONTROL EVALUATION AND DEMONSTRATION (SEC. 32, 1974 ACT)	---	---	6,450,000	---	9,545,000	---	9,545,000	---
	SHORELINE EROSION CONTROL DEMONSTRATION (SEC. 54, 1974 ACT)	---	---	1,500,000	---	1,500,000	---	1,500,000	---
	AQUATIC PLANT CONTROL (1965 ACT)	---	---	3,000,000	---	4,605,000	---	4,605,000	---
	EMPLOYEES COMPENSATION	---	---	3,947,000	---	3,947,000	---	3,947,000	---
	REDUCTION APPLIED FROM PRIOR YEAR UNOBLIGATED BALANCES AND S VINGS AND SLIPPAGES	---	---	-79,617,000	---	-80,167,000	---	-85,167,000	---
	UNOBLIGATED BALANCES CARRIED FORWARD FROM PREVIOUS YEARS APPLIED	---	---	---	---	-70,000,000	---	-85,000,000	---
	TOTAL	24,779,840,000	10,041,630,000	1,772,879,000	22,716,000	1,365,457,000	27,058,000	1,326,549,000	27,598,000
	TOTAL, CONSTRUCTION, GENERAL	---	---	---	---	---	---	---	---

UNOBLIGATED BALANCES FROM PREVIOUS YEARS APPLIED IN FISCAL YEAR 1979

The Committee notes that, based on progress through June 1978, the Corps of Engineers will have substantial carryovers of unobligated construction funds. Testimony was provided by the Chief of Engineers, the Director of Civil Works, and several Division Engineers as to the causes of the large carryover into fiscal year 1978. It now appears that many of these reasons will continue for another year. Accordingly, to bring these carryovers to more manageable levels by the end of fiscal year 1979, the Committee has recommended an appropriation for Construction, General, totaling $85,000,000 less than the sum of project allowances less the savings and slippage reduction. It is intended that this $85,000,000 be applied in 1979 from unobligated fiscal year 1978 balances.

REVISED PROJECT AMOUNTS

As shown in the foregoing table, the Committee has reduced the amounts for those projects listed below. These changes also take into consideration the application of previous years unobligated balances applied in fiscal 1979. The amount of the decrease and the reason for the reduction follow:

Project	Decrease	Reason
Planning		
McKinney Bayou, Ark. and Tex	$100,000	Reanalysis of requirements resulting from planning delays.
Lewiston-Clarkson Bridge, Idaho and Wash	120,000	Requirement to complete preconstruction planning reduced.
Louisville Lake, Ill	266,000	Surplus to fiscal year 1979 capability.
Cedar Point Lake, Kans	50,000	Failure of State to provide assurances for water supply.
Strube Lake and Cougar additional unit, Oregon	350,000	Rsquirement to complete preconstruction planning was reduced.
Hay Creek, Birdsboro, Pa	50,000	Revised schedule based on approved plan of study.
Big Spring, Tex	150,000	Fully funded.
Haysi Lake, Va	350,000	Requires restudy to determine if project is economically justified.
Construction		
Mobile Harbor (Theodore Ship Channel), Ala	2,800,000	Delay in initiating construction to comply with the requirements of sec. 404 R of Public Law 92-500, as amended.
Corte-Madera Creek, Calif	60,000	Exceeds capability.
Los Angeles-Long Beach Harbor, Calif	4,500,000	Redesign of disposal area delays start to late in fiscal year 1979.
Santa Cruz Harbor, Calif	85,000	Lack of local cooperation.
Central and Southern Florida, Florida	500,000	Delay in acquisition of necessary lands by local interests and planning delays on recreation facilities and Buttonwood lock work.
Tampa Harbor, Fla	2,700,000	Savings due to favorable bid.
East Moline, Ill	540,000	Delay in land acquisition by locals.
Illinois Waterway, Dresden Island lock and dam, Illinois (rehabilitation).	590,000	Planning delay for installation of fire protection equipment and replacement of tow haulage system.
Illinois Waterway, Starved Rock lock and dam, Illinois (rehabilitation).	440,000	Do.
Smithland locks and dam, Illinois, Indiana, and Kentucky.	200,000	Construction delay.
Evansville, Ind	3,095,000	Delay in design of pumping plant and in obtaining rights-of-way from local interests.
Mississippi River between Missouri River and Minneapolis, Minn., old lock No. 19, Iowa (rehabilitation).	1,000,000	Contractor's accelerated rate being funded by fiscal year 1978 transfer. Offsetting fiscal year 1979 requirements.
Dayton, Ky	500,000	Delay in obtaining rights-of-way from local interests.
Laurel River Lake, Ky	500,000	Design delay on recreation contract.
Southwestern Jefferson County, Ky	1,200,000	Favorable bids and delay in obtaining rights-of-way from local interests.

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Project	Decrease	Reason
Wolf Creek Dam, Lake Cumberland, Ky. (rehabilitation).	$5,000,000	Reduction in cost estimate based on work completed to date.
Muskegon Harbor, Mich. (rehabilitation)	725,000	Contractor's accelerated rate being funded by fiscal year 1978 transfer, thereby offsetting fiscal year 1979 requirements.
Tallahala Creek Lake, Miss	5,500,000	Oil find in reservoir area delayed initiation of construction.
Cuyahoga River, Ohio	1,000,000	Delay in negotiations with owners regarding railroad bridge relocation.
Lukfata Lake, Okla	150,000	Unresolved environmental issues.
Coos Bay, Oreg	3,300,000	Surplus to completion.
Chartiers Creek, Pa	500,000	Delay in obtaining rights-of-way from local interests.
Cooper Lake and Channel, Tex	500,000	Delay due to litigation.
Three Rivers, Tex	600,000	Delay in local cooperation requirements.
Beech Fork Lake, W.Va	400,000	Design delay on remaining recreation facilities.
LaFarge Lake and Channel Improvement, Wisconsin.	1,000,000	Lack of local support.

PHOENIX AND VICINITY, ARIZONA

The Committee has included funds in the amount of $2,533,000 to complete construction of Stage 1 of the Phoenix and Vicinity flood protection project. Stage 2 and Remaining Work is a component of the overall plan of improvement authorized by Congress in the 1965 Flood Control Act. The overall project provides substantial protection to about 50,500 acres of this highly urbanized area and would prevent about 72 percent of the total average annual damages. The 1977 value of the protected area exceeds $6.5 billion and the project has an excellent benefit to cost ratio. The Committee believes this highly important project, including Stage 2 and remaining work, should be completed as quickly as possible. Therefore, the Corps of Engineers is to take all necessary steps to insure that the detailed engineering and design work for Stage 2 is complete in order for construction to proceed on this component. If additional funds are required, the corps should allocate sufficient funds for this work so that construction is not unduly delayed.

ROCHESTER, MINN. (PHASE I)

An additional amount of $300,000, above the $40,000 previously appropriated, has been recommended for phase II advanced engineering and design on the Rochester, Minn. local protection project. In light of recent severe flooding along the Zumbro River which resulted in estimated damages of $56,000,000 of which $53,000,000 would have been prevented by the project and the loss of five lives, the Committee believes it is imperative that the requirements of the project authorization for phase I planning be fullfilled at the earliest possible time so that phase II advanced engineering and design can be initiated and expedited by the Corps of Engineers.

SHOOTERS ISLAND, N.Y.

The Committee has provided a total of $50,000 under planning for the Shooters Island project. In light of serious environmental problems surrounding the removal of the island, including the impact on the habitat of Snowy Egrets, Great Egrets and other species, and questions concerning local cost sharing, the Committee directs the Corps of Engineers to prepare a report on the environmental impact, cost-sharing, and other aspects of this project. The Committee also

understands that Interior Department agencies have objected to this project. Therefore the report should be coordinated with appropriate Federal agencies and forwarded to the Committees on Appropriations of the House and Senate for consideration during review of the fiscal year 1980 budget, but not later than March 31, 1979.

FALMOUTH LAKE, KY.

The Committee has provided $200,000, the same as the House allowance, to complete the pre-construction planning on the Falmouth Lake project in Kentucky. The Committee is concerned about the manner in which this project has been handled and the continued delay in completing the project planning by the Corps of Engineers. The Committee directs that the planning be completed with the funds provided and that the recommendation regarding the project, which is currently under review by GAO, be forwarded to the Congress for its review.

MISSISSIPPI RIVER BATON ROUGE TO THE GULF OF MEXICO, LA.

Within the funds provided or available the Chief of Engineers is directed to establish and maintain in the interest of safe navigation an adequate anchorage area with appropriate dimensions, in the Mississippi River above Head of Passes in the vicinity of Pilottown, La. U.S. Coast Guard recommendations in 1977 identified this anchorage requirement as high priority immediate need.

MERAMEC PARK LAKE, MO.

The Committee recommends an appropriation of $12,000,000 for the Meramec Park Lake project in Missouri. The use of these funds is contingent upon a favorable outcome of the August 8, 1978 local referendum on the project. If the referendum fails to show public support for the project, the Committee expects these funds to be transferred to other ongoing projects.

MISSISSIPPI RIVER, AGRICULTURAL AREA NO. 8 (ELSBERRY), MO.

The Committee has provided $400,000 to include the reimbursement to the Elsberry Drainage District in Missouri for the cost of pumping equipment installed by local sponsors in accordance with the section 215 agreement as approved by the Committees and executed by the local sponsors in connection with the Mississippi River, Agricultural Area No. 8 (Elsberry) project.

MISSOURI RIVER LEVEE SYSTEM

The Committee has agreed to provide $5,300,000 for the Missouri Levee System. Within this amount, the Corps should initiate construction of Unit L611–614.

BAYOU BODCAU, LA.

The Committee has included $2,200,000 to resume construction of the Bayou Bodcau project in Louisiana in accordance with the authorized plan of improvement.

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WILLOW CREEK LAKE, OREG.

The Committee has included funds for construction of the Willow Creek Lake, Oreg., project with modifications recommended by the Chief of Engineers in his report dated May 15, 1974. The Committee notes that the project is well justified, with a benefit cost ratio of 1.4 at the applicable interest rate presented in the report.

COOPER RIVER, CHARLESTON HARBOR, S.C.

The Committee recognizes the concerns of local government officials in Charleston, S.C., regarding the possibility of saltwater intrusion into the Bushy Park reservoir resulting from the Cooper River rediversion project. Further, the Committee concurs with the need for Federal monitoring to check for such intrusion and the desirability of the Corps of Engineers' releasing water from the Pinopolis Dam in the event intrusion occurs.

SMITHVILLE LAKE, MO.

The Committee believes that it would be highly desirable to create an enduring memorial to the late Congressman Jerry L. Litton, who served the sixth district of Missouri with distinction from 1972 until his tragic death in 1976. Accordingly, the Committee desires that, with funds provided for the Smithville Lake project, the visitor center—administration buildings complex that is now being planned be named after Jerry L. Litton and modified to provide a fitting and appropriate exhibit area, to memorialize his accomplishments. In addition to Federal funds which may be up to (but shall not exceed) the limitation established by Corps of Engineers regulations for a regional type facility, these modifications should be carried out with such contributed funds, memorabilia and related curatorial services that may be made available.

UMPQUA RIVER, OREG.

The Committee has heard testimony that hazardous entrance conditions exist at the Umpqua River, Oreg., navigation project. The Corps of Engineers has been unable to adequately maintain the authorized project, and through much of the year shoaling results in inadequate channel depths and widths, dangerous breaker waves at the entrance bar, and dangerous cross currents in the channel. Over 41 lives have been lost at this project since 1951 and the operational problems have been a contributing factor in the general decline of the local economy in the project's tributary area. Douglas County has experienced substantial unemployment since 1970, and is designated as a redevelopment area by the U.S. Economic Development Administration.

The Committee regards these operational problems to be clear evidence of a design deficiency. Historically, the Corps has corrected design deficiencies under the basic authority used for construction of the deficient project, without seeking additional authorization. The Committee, therefore, directs the corps to proceed with corrections to the existing project and has provided $2 million for initia-

tion of these corrections in fiscal year 1979. The Committee expects the Corps of Engineers to proceed with the plan of improvement set forth in the report of the Portland District Engineer dated June 1976.

NORFOLK LAKE, ARK.

An appropriation of $2,000,000 is recommended by the Committee to initiate construction of the long delayed highway bridge at Norfolk Lake. The Committee directs the Corps of Engineers to allocate from within available funds such additional amounts as are required to equal the corps capability for fiscal year 1979 on this project.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

Appropriations, 1978	$253,081,000
Budget estimate, 1979	204,000,000
House allowance	232,930,000
Committee recommendation	223,035,000
Comparison:	
Budget estimate	+19,035,000
House allowance	−9,895,000

An appropriation of $223,035,000 is recommended by the Committee. This is $9,895,000 below the House allowance and $19,035,000 over the budget request.

The following table shows the distribution of the funds recommended along with the budget request and the House allowance for activities and projects under this heading.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

	Budget estimate	House allowance	Committee recommendation
1. General investigations:			
(a) Surveys:			
(1) General studies:			
Boeuf-Tensas basin, south Arkansas and north Louisiana		$100,000	$100,000
Helena, Arkansas, and vicinity	$100,000	100,000	100,000
St. Francis River basin below Wappapello Lake, Ark. and Mo.	165,000	165,000	165,000
West Memphis, Ark.	22,000	22,000	22,000
Mississippi River, Cairo, Ill., to Baton Rouge, La.	260,000	260,000	260,000
Atchafalaya basin (water and land resources), Louisiana	410,000	410,000	410,000
Berwick lock-Atchafalaya basin, Louisiana	100,000	100,000	100,000
Louisiana State Penitentiary levee, Mississippi River, La.	75,000	75,000	75,000
Larto Lake-Saline Area, La.			30,000
Mississippi and Louisiana esturine area, Mississippi and Louisiana	120,000	135,000	135,000
Yazoo River basin, Mississippi	300,000	650,000	650,000
Obion and Forked Deer Rivers and tributaries, Tennessee and Kentucky	65,000	65,000	65,000
Wolf and Loosahatchie Rivers and Nonconnah Creek, Tenn. and Miss.	102,000	102,000	102,000
St. Francis Mitigation Study, Mo.			25,000
Mississippi River-East Bank Levees, Tenn. and Ky.			50,000
(2) Phase I stage of advance engineering and design:			
Horn Lake Creek and tributaries, including Cow Pen Creek, Miss. and Tenn.	150,000	215,000	215,000
St. John's Bayou and New Madrid Floodway, Mo.	110,000	145,000	145,000
Nonconnah Creek, Tenn. and Miss.	150,000	170,000	170,000
(b) Collection and study of basic data	160,000	160,000	160,000
Subtotal, general investigations	2,289,000	2,874,000	2,979,000

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES—Continued

	Budget estimate	House allowance	Committee recommendation
2. Construction and planning:			
Eastern Rapides-South Central Avoyelles, Louisiana		$70,000	$70,000
Harris Fork Creek, Kentucky and Tennessee	$170,000	170,000	170,000
Mississippi River levees	27,700,000	28,000,000	28,000,000
Channel improvement	39,890,000	45,123,000	45,123,000
Lake Neark, Ark. recreation	(0)	(123,000)	(123,000)
Old River, La	2,500,000	2,500,000	2,500,000
Lower Red River, south bank levees, Louisiana	1,200,000	2,000,000	2,000,000
Atchafalaya basin, Louisiana	26,000,000	29,000,000	29,000,000
Cache basin, Arkansas	2,820,000	2,820,000	2,820,000
St. Francis basin, Arkansas and Missouri	11,700,000	12,000,000	12,000,000
Tensas basin, Arkansas and Louisiana	(9,300,000)	(13,200,000)	(13,200,000)
Boeuf and Tensas Rivers, except Lake Chicot pumping plant	500,000	500,000	500,000
Boeuf and Tensas Rivers, Lake Chicot pumping plant	5,070,000	6,770,000	6,770,000
Red River backwater area, except Tensas Cocodrie pumping plant	800,000	1,600,000	1,600,000
Red River backwater area, Tensas Cocodrie pumping plant	2,930,000	4,330,000	4,330,000
West Kentucky tributaries, Kentucky	2,900,000	2,900,000	2,900,000
Teche-Vermilion basins, Louisiana	4,000,000	4,000,000	4,000,000
Yazoo basin, Mississippi	(10,279,000)	(16,000,000)	(16,000,000)
Sardis Lake	901,000	1,301,000	1,301,000
Arkabutla Lake	105,000	105,000	105,000
Enid Lake	123,000	623,000	623,000
Grenada Lake	1,002,000	1,252,000	1,252,000
Greenwood	11,000	11,000	11,000
Upper Yazoo projects	2,385,000	3,685,000	3,685,000
Main stem	282,000	282,000	282,000
Tributaries:			
Except Ascalmore-Tippo and Opossum Bayous	1,670,000	2,641,000	2,641,000
Ascalmore-Tippo and Opossum Bayous	300,000	1,200,000	1,200,000
Big Sunflower River, etc	800,000	1,900,000	1,900,000
Yazoo backwater	1,200,000	1,500,000	1,500,000
Streambank erosion control evaluation and demonstration	1,500,000	1,500,000	1,500,000
West Tennessee tributaries, Tennessee	2,500,000	3,500,000	3,500,000
Subtotal, construction and planning	140,959,000	161,283,000	161,283,000
3. Major rehabilitation: Old River, La. (Old River control structure)	10,700,000	10,700,000	10,700,000
4. Maintenance	60,052,000	64,973,000	64,973,000
Less reduction for savings and slippages	−10,000,000	−6,900,000	−6,900,000
Unobligated balances applied			−10,000,000
Total	240,000,000	232,930,000	223,035,000

CACHE BASIN, ARK.

Section 99 of the Water Resources Development Act of 1974, Public Law 93–251, 88 Stat. 41, modified this project to provide for acquisition of not more than 70,000 acres of land for fish and wildlife management, recreation, and enviromental purposes. The law provides, in addition, that no less than 20 percent of the funds appropriated each fiscal year for the project shall be allocated to implement mitigation. It is the sense of the Committee that purchase of mitigation lands has not been proceeding quickly enough. Only about 9,500 acres have been acquired. The 1974 statute contemplates that Congress may from time to time decide to allocate more than 20 percent of the funds appropriated for any given fiscal year to the purchase of mitigation lands. In order that these purchases may be expedited, the Committee recommends that none of the $2,820,000 included for the project for fiscal year 1979 be spent for construction. The Committee directs that these funds be expended for the purchase of mitigation lands and for a restudy of the project which the Corps of Engineers and other agencies have been discussing.

Construction has been suspended in any event by the lack of a permit from the Environmental Protection Agency under section 404 of the Water Pollution Control Act of 1972, as amended.

The Committee notes that the Corps of Engineers, the Environmental Protection Agency, and the Fish and Wildlife Service are discussing a course of action designed to resolve controversy over this project. These efforts are commended. Under this proposed agreement, the corps would undertake a special study of alternatives to the project, including the leveed-floodway alternative recommended by an interagency task force composed, among others, of the Department of the Interior, EPA, the Arkansas Department of Pollution Control and Ecology, and the Arkansas Game and Fish Commission. This alternative, according to the task-force report, would give needed flood protection to lands in the upper Cache Basin that are already under cultivation, while avoiding further environmental degradation through ditching in the middle and lower Basins. The Committee directs the Corps of Engineers to coordinate the study fully with EPA, the Fish and Wildlife Service, the Arkansas Game and Fish Commission, and local interests. The Committee looks forward to the results of this study, but, as indicated above, purchase of mitigation lands must continue while the study is proceeding.

OPERATION AND MAINTENANCE, GENERAL

Appropriations, 1978	$745,370,000
Budget estimate, 1979	750,500,000
House allowance	795,500,000
Committee recommendation	795,500,000
Comparison:	
Budget estimate	+45,000,000
House allowance	

The Committee recommends $795,500,000, the same as the House allowance, which is $45,000,000 over the budget request.

The funds provided are for maintenance and operation of projects already constructed so full value can be obtained from the public's prior investment in them. In fiscal year 1979, the Corps of Engineers will operate and maintain 218 locks and dams, 273 flood control reservoirs, 71 multi-purpose projects with power, and about one fourth—some 270—of the completed channels and harbors.

In accord with the long-standing policy of the Committee, no specific allocations to individual projects are recommended. Such specific allocations would impede the corps' ability to adjust to continuously changing needs. Only if the corps' financial flexibility to respond to emergencies and other unanticipated urgent requirements is preserved can the Chief of Engineers carry out his responsibility to perform the O. & M. work of greatest overall importance to the Nation.

The increase recommended is sufficient to provide for the most critical needs expressed to the Committee. The attention of the Corps of Engineers is directed specifically to the following projects in need of maintenance and for which the Committee has received testimony and funding requests. the Chesapeake and Delaware Canal; Delaware River, Marcus Hook and Mantua anchorages; New Haven Harbor, Wilmington Harbor; Indian River Inlet; the Ohio River navigation channel; Mispillion River; Kanawha River; Summerville Lake; Sutton Lake; Tygarts Lake; Bluestone Lake; Marmet Locks; Grand Marais Harbor; and Houma Navigation Canal. These are in addition to the items already brought to the attention of the corps and adequate

funds to remedy the deficiencies are to be allocated to the field offices for these items also.

PINE BLUFF HARBOR, ARK.

A serious safety problem exists at the entrance to the Pine Bluff Harbor on the McClellan-Kerr navigation system resulting from the narrowness of the navigation channel and the sharpness of the required turn. This presents a critical problem to barge operators who must moor their tows on makeshift facilities while reconfiguring to enter the harbor. This particular problem has been recognized by the Corps and addressed in concept. The Committee views safety of navigation at harbor entrances to be as integral a part of overall system safety as is channel safety or lock and dam safety. Accordingly, the Committee expects the corps to utilize available operation and maintenance funds to ameliorate this navigation problem.

CAMBRIDGE HARBOR, MD.

The Committee understands that a project authorizing the Corps of Engineers to assume Federal maintenance of the locally constructed 25-foot channel and turning basin has been favorably recommended by the Chief of Engineers to the Secretary of the Army. This report is presently under review at the Office of Management and Budget. The project has an excellent benefit-to-cost ratio of 9.0 and is essential to maintaining the economic viability of Cambridge Harbor. Therefore, once the project is authorized, the Corps should use available Operation and Maintenance, General funds to accomplish the work in accordance with the recommendations of the Chief of Engineers.

REVOLVING FUND

Appropriations, 1978	$21, 525, 000
Budget estimate, 1979	22, 000, 000
House allowance	29, 000, 000
Committee recommendation	46, 000, 000
Comparison:	
Budget estimate	+24, 000, 000
House allowance	+17, 000, 000

The Committee recommends an appropriation of $46,000,000 for fiscal year 1979, an increase of $24,000,000 over the budget request and $17,000,000 over the House allowance.

The Committee agrees with the House actions to improve the management and operation of the Revolving Fund and to eliminate the annual total corpus limitation on the fund.

However, the Committee recommends a limitation on the total accrued expenditures of the capital investment program of not to exceed $102,500,000 for fiscal 1979, instead of a $1,186,861,000 limitaton on total obligations of the Fund that the House has proposed. The Committee feels this is a more appropriate control which is responsive to the desired improvements of the management and operation of the Revolving Fund.

Included within the limitation on the total expenditures of the capital investment program is $700,000 for the purchase of a captured air hydrographic survey vessel. This item was not included in the fiscal

year 1979 budget request since the estimated construction and delivery cost was not expected to exceed the $500,000 line item ceiling for inclusion in the budget. It is expected that significant improvement in surveying capability and efficiency will result from the acquisition and use of this type of vessel.

The Committee also recommends concurrence with the House action for the purchase of one aircraft for replacement only. The Corps of Engineers should apply the trade-in value of the existing G–1 aircraft toward the purchase of the replacement aircraft.

HOPPER DREDGE POLICY AND PROGRAM

In an effort both to provide the Corps of Engineers with a modern minimum hopper dredge fleet and to provide additional assurances to the private dredging industry that the hopper dredges it constructs will have opportunity to compete for dredging work, the Committee directs the Chief of Engineers to implement the following policy and program:

1. During the next 3 fiscal years the corps is directed to make available up to 30 million cubic yards of hopper dredge work per year for industry to bid on;
2. At 6 month intervals meetings shall be arranged with industry representatives to permit them to identify those projects being considered for advertisement on which they wish to bid and for which they have the capability to compete;
3. The projects to be scheduled for advertisement shall be determined by considering the expressed interests and capability of the industry and the annual yardage required for the corps' minimum fleet pursuant to Public Law 95–269, but this does not limit the amount of work the corps may offer to private industry;
4. In fiscal year 1982, the corps shall reassess this program to determine whether industry's response to it warrants an increase or a decrease in the amount of work to be made available for industry to bid on;
5. The corps shall take the necessary steps to assure that the funds required to support the program are available so there are no delays or deferrals in the advertisement program, consistent with other necessary operation and maintenance requirements of the Civil Works program;
6. The corps shall establish its recommendation for the size and composition of the Federal hopper dredge fleet and shall provide to the Committee with the submission of the fiscal year 1980 budget request, its recommendations together with the full and complete justification therefor; and
7. As a part of this program, the Committee has included an additional appropriation of $17 million to the Revolving Fund to initiate construction of the medium class hopper dredge.

Based on testimony presented by the Corps of Engineers on the fiscal year 1979 budget, the Committee believes that the policy and program outlined above will provide the necessary incentive for the Industry to construct additional new hopper dredges and to expand its participation in the hopper dredging field. This extension of the Industry Capability program meets the above objective which is contained in Public Law 95–269.

FLOOD CONTROL AND COASTAL EMERGENCIES

Appropriations, 1978	$18,000,000
Budget estimate, 1979	20,000,000
House allowance	20,000,000
Committee recommendation	20,000,000
Comparison:	
Budget estimate	----------
House allowance	----------

The Committee recommends concurrence with the House allowance of $20,000,000, the same as the budget request.

The funds recommended provide for flood emergency preparation, flood fighting and rescue operations, and repair of flood control and Federal hurricane or shore protection works. The request is for replenishment of the account.

GENERAL EXPENSES

Appropriations, 1978	$56,800,000
Budget estimate, 1979	66,500,000
House allowance	66,500,000
Committee recommendation	66,500,000
Comparison:	
Budget estimate	----------
House allowance	----------

An appropriation of $66,500,000 is recommended, the same as the House allowance and budget request.

The Committee notes with some concern that Division Engineers of two major Corps Division regions are colonels, while the majority of the other divisions are headed by general officers. Since the appropriations provided by this Committee support sufficient general officer positions to supervise the regional public activities of the civil works program, the Committee urges the Chief of Engineers to make available officers of appropriate seniority to fill these important positions.

PERSONNEL

The Committee upon close examination of the reasons for the delays and decline in performance of the civil works missions assigned by Congress, heard testimony from the Chief of Engineers, the Director of Civil Works and Division Engineers concerning increased difficulties in executing the civil works program because of Office of Management and Budget imposed manpower ceilings. There have been no manpower increases for the operation of newly completed projects, for incorporation of NEPA and other environmental laws into the planning and engineering process for corps projects, nor for the expanded regulatory program. Notwithstanding this increased workload, the corps has undertaken high priority work for other agencies and new missions. The work for other agencies includes the flood information studies for the Department of Housing and Urban Development, land acquisition for the Department of Energy and the National Park Service, and supervision of construction for the wastewater treatment construction grants program of the Environmental Protection Agency. The construction grants program may require up to 700 professionals. New direct corps missions also include the high priority dam inspection program, which requires about 200 professional people. In addition,

at least 200 additional rangers are needed for visitor protection and related outdoor recreation functions.

In order to accomplish its mission, the corps has been forced to contract additional work at higher cost or to accept lower levels of service to the public at its completed facilities, or at projects under construction.

The Committee has added 1,850 full-time permanent spaces to the estimate for the corps ceiling in 1979 for a total of 30,300 full-time, permanent positions to permit the corps to carry out its mission, including work for other agencies, in a timely, efficient and economical fashion. The Committee expects the corps to reduce its unexpended carryovers and keep studies, planning and construction projects on schedule once these additional people have been hired.

The Corps of Engineers has agreed to do work for other Federal agencies and for certain foreign governments. In agreeing to these missions, the corps has neglected to consult with the appropriate congressional committees. Although the Congress may feel that these additional responsibilities are appropriate, the resources provided for the civil works program should not be dissipated. Before undertaking any new missions that might impact on the civil works program, the Corps of Engineers should seek the approval of the appropriate committees of Congress.

SPECIAL RECREATION USE FEE

Appropriations	$6,000,000
Budget estimate, 1979	3,300,000
House allowance	3,300,000
Committee recommendation	3,300,000
Comparison:	
Budget estimate	----------
House allowance	----------

The Committee recommends an appropriation of $3,300,000, the same as the budget request and House allowance.

The Special Recreation Use Fee revenues authorized under the Land and Water Conservation Fund Amendment Act of 1972 will be used for authorized recreation purposes at Corps of Engineers water resource projects which include fee collecting, recreation facility development and items essential to the health and safety of the using public.

TITLE III—DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

GENERAL INVESTIGATIONS

Appropriations, 1978	$25, 106, 000
Budget estimate, 1979	22, 200, 000
House allowance	29, 870, 000
Committee recommendation	30, 870, 000
Comparison:	
Budget estimate	+8, 670, 000
House allowance	+1, 000, 000

The Committee recommends an appropriation of $30,870,000, an increase of $1,000,000 over the House allowance and $8,670,000 over the budget request.

BUTTE VALLEY DIVISION

The Committee has been advised that the Bureau has just recently revised its capability on the Butte Valley Division feasibility study from $100,000 to $300,000 to avoid serious disruptions and delay in the work plan during fiscal year 1979, particularly in completing a production test well. Accordingly, it is recommended that the Bureau allocate from within available funds the additional amount required to equal its capability for this work.

ATMOSPHERIC WATER RESOURCES MANAGEMENT PROGRAM

The Committee recommends an increase of $1,000,000 over the $7,554,000 provided by the House for the Atmospheric Water Resources Management Program. The additional funds will be used to initiate a high-altitude downwind seeding effects research effort in conjunction with the northern plains experiment of the HIPLEX program as well as comprehensive development of cloud-top seeding technology. This includes ground radar guidance support, weather modification pilot training, and research into the operational cost effectiveness of these new seeding methods.

Further, the Committee recognizes the importance of the development of weather modification as a means of mitigating drought in semi-arid regions of the United States. The Committee recommends that the Bureau of Reclamation allocate $1, 000,000 from within the total resources available to the Bureau to conduct rain augmentation research in the Southwest in areas where drought patterns are developing.

The funds recommended are allocated to surveys and activities as follows:

GENERAL INVESTIGATIONS

Name and location of study	Type of project	Budget estimate	House allowance	Committee recommendation
ARIZONA				
BOULDER CANYON, HOOVER POWERPLANT MODIFICATION	FEAS.-P	580,000	580,000	580,000
RECLAMATION AND ENERGY SOURCES, LMNRA WILDERNESS DESIGNATION	SP. INV.	250,000	250,000	250,000
CALIFORNIA				
CENTRAL VALLEY:				
CALAVERAS COUNTY DIVISION	APPR.	50,000	50,000	50,000
COSUMNES RIVER DIVISION, REFORMULATION	FEAS.-I,M&I	90,000	90,000	90,000
DELTA SUPPORT STUDIES	SP. INV.	435,000	585,000	585,000
EAST SIDE DIVISION, MID-VALLEY CANAL	FEAS.-I,M&I	40,000	40,000	40,000
FISH AND WILDLIFE MANAGEMENT STUDY	SP. INV.	---	100,000	100,000
FRIANT DIVISION, FRIANT POWERPLANTS STUDY	APPR.	70,000	70,000	70,000
SACRAMENTO RIVER DIVISION, RED BLUFF DIVERSION DAM POWERPLANT	APPR.-P	40,000	40,000	40,000
SACRAMENTO RIVER DIVISION, WEST SACRAMENTO CANAL UNIT, REFORMULATION	FEAS.	200,000	200,000	200,000
SHASTA-KESWICK POWERPLANT ENLARGEMENTS	APPR.-P	70,000	70,000	70,000
TOTAL WATER MANAGEMENT STUDY	SP. INV.	285,000	285,000	285,000
TRINITY DIVISION, WHISKEYTOWN POWERPLANT STUDY	APPR.	30,000	30,000	30,000
ENERGY RESEARCH AND DEVELOPMENT (GEOTHERMAL)		200,000	200,000	200,000
GEOTHERMAL RESOURCES INVESTIGATIONS		555,000	555,000	555,000
KLAMATH, BUTTE VALLEY DIVISION (SEE OREGON)				
LAHONTAN BASIN TOTAL WATER MANAGEMENT STUDY (SEE NEVADA)				

GENERAL INVESTIGATIONS—CONTINUED

ORLAND STONY GORGE-EAST PARK POWERPLANTS	APPR.-P	30,000	30,000	30,000
SAN JOAQUIN VALLEY DRAINAGE	APPR.	80,000	80,000	80,000
SOLANO COUNTY WATER	FEAS.-I,M&I	75,000	75,000	75,000
SUSANVILLE GEOTHERMAL INVESTIGATIONS	FEAS.	58,000	383,000	383,000
TRUCKEE RIVER BASIN STUDY, BOCA-PROSSER POWERPLANTS	APPR.-P	40,000	40,000	40,000
VENTURA COUNTY WATER MANAGEMENT	FEAS.-I,M&I	100,000	100,000	100,000
WHIPPLE WASH PUMPED STORAGE	APPR.-P	200,000	200,000	200,000
COLORADO				
DOMINGUEZ RESERVOIR	FEAS.-M&I,P	100,000	100,000	100,000
ENERGY RESEARCH & DEVELOPMENT (PUMPED STORAGE)		241,000	241,000	241,000
FRONT RANGE UNIT (LONG'S PEAK DIVISION, P-SMBP)	FEAS.-M&I	140,000	140,000	140,000
GRAND MESA, REFORMULATION		217,000	217,000	217,000
LOW-HEAD HYDROELECTRIC EVALUATION & INVENTORY	SP. INV.	400,000	400,000	400,000
UPPER COLORADO RESOURCE STUDY	FEAS.-I,M&I	100,000	100,000	100,000
WATER RESOURCES PLANNING AND ENGINEERING RESEARCH		2,011,000	2,011,000	2,011,000
IDAHO				
BOISE, ANDERSON RANCH POWERPLANT-3RD UNIT	FEAS.	60,000	60,000	60,000
BOISE POWER AND MODIFICATION STUDY	APPR.-P	150,000	150,000	150,000
MINIDOKA, MINIDOKA POWERPLANT REHABILITATION AND ENLARGEMENT	FEAS.-P	170,000	170,000	170,000
OWYHEE POWERPLANT	APPR.-P	100,000	100,000	100,000
PALISADES POWERPLANT ENLARGEMENT	APPR.-P	175,000	175,000	175,000
SOUTHWEST IDAHO WATER MANAGEMENT STUDY	SP. INV.	125,000	125,000	125,000
UPPER SNAKE RIVER, OAKLEY FAN DIVISION, REFORMULATION	FEAS.-I	10,000	10,000	10,000
UPPER SNAKE RIVER WATER MANAGEMENT STUDY	SP. INV.	150,000	150,000	150,000

Name and location of study	Type of project	Budget estimate	House allowance	Committee recommendation
KANSAS				
KANSAS STATE WATER PLAN-PHASE II	APPR.	175,000	175,000	175,000
SOLOMON RIVER BASIN WATER MANAGEMENT STUDY (P-SMBP)	SP. INV.	250,000	250,000	250,000
MONTANA				
CANYON FERRY POWERPLANT	APPR.	55,000	55,000	55,000
GIBSON POWERPLANT STUDY	APPR.	100,000	100,000	100,000
HUNGRY HORSE, HUNGRY HORSE POWERPLANT ENLARGEMENT AND REREGULATING RESERVOIR		210,000	210,000	210,000
TIBER POWERPLANT STUDY	APPR.	75,000	75,000	75,000
TOTAL WATER MANAGEMENT STUDY (P-SMBP) (SEE SOUTH DAKOTA)				
YELLOWTAIL AFTERBAY POWERPLANT STUDY	APPR.	75,000	75,000	75,000
NEBRASKA				
LITTLE BLUE UNIT (P-SMBP)	FEAS.	50,000	150,000	150,000
OTOE-CASS	APPR.	---	50,000	50,000
PLATTE RIVER WATER MANAGEMENT STUDY	SP. INV.	---	420,000	420,000
REPUBLICAN RIVER BASIN WATER MANAGEMENT STUDY (P-SMBP)	SP. INV.	200,000	200,000	200,000
SPARKS UNIT	APPR.	25,000	25,000	25,000

GENERAL INVESTIGATIONS—CONTINUED

Name and location of study	Type of project	Budget estimate	House allowance	Committee recommendation
NEVADA				
BOULDER CANYON, HOOVER POWERPLANT MODIFICATION (SEE ARIZONA)				
LAHONTAN BASIN TOTAL WATER MANAGEMENT STUDY	SP. INV.	90,000	90,000	90,000
RECLAMATION AND ENERGY SOURCES, LMNRA WILDERNESS DESIGNATION (SEE ARIZONA)				
NEW MEXICO				
GALLUP-NAVAJO INDIAN WATER SUPPLY	FEAS.-M&I	20,000	20,000	20,000
LLANO-ESTACADO TOTAL WATER MANAGEMENT STUDY	SP. INV.	395,000	395,000	395,000
RATON WATER SUPPLY	FEAS.-M&I	260,000	260,000	260,000
NORTH DAKOTA				
APPLE CREEK UNIT (NORTH DAKOTA PUMPING DIV., P-SMBP)	FEAS.	---	300,000	300,000
GARRISON DIVERSION UNIT, M&I WATER FACILITIES (GARRISON DIVISION, P-SMBP)	FEAS.-M&I	101,000	101,000	101,000
TOTAL WATER MANAGEMENT STUDY (P-SMBP) (SEE SOUTH DAKOTA)				
OKLAHOMA				
GEARY	FEAS.-M&I	170,000	170,000	170,000
NORMAN MODIFICATION	APPR.-M&I	230,000	230,000	230,000
OKLAHOMA STATE WATER PLAN	APPR.	---	100,000	100,000
SEWARD	FEAS.-M&I	120,000	120,000	120,000
WILBURTON	APPR.-M&I	145,000	145,000	145,000

OREGON				
BOISE, ANDERSON RANCH POWERPLANT 3RD UNIT - (SEE IDAHO)				
GRANDE RONDE RIVER STUDY	APPR.	---	75,000	75,000
KLAMATH, BUTTE VALLEY DIVISION	FEAS.-I	100,000	100,000	100,000
LOWER DESCHUTES RIVER STUDY	APPR.	---	75,000	75,000
OWYHEE POWERPLANT (SEE IDAHO)				
ROGUE RIVER BASIN, GRANTS PASS DIVISION	FEAS.-M&I	80,000	80,000	80,000
ROGUE RIVER BASIN, MEDFORD DIVISION, REFORMULATION	FEAS.	145,000	145,000	145,000
SILETZ RIVER BASIN STUDY	APPR.	---	75,000	75,000
UMATILLA BASIN	FEAS.-M&I	10,000	85,000	85,000
UPPER JOHN DAY RIVER STUDY	APPR.	---	75,000	75,000
SOUTH DAKOTA				
LOWER JAMES-FORT RANDALL WATER DIVERSION PROPOSAL	FEAS.	---	150,000	150,000
OAHE RIVERSIDE IRRIGATION STUDY	APPR.	---	50,000	50,000
OAHE UNIT, M&I WATER FACILITIES (JAMES DIVISION, P-SMBP)	FEAS.-M&I	150,000	150,000	150,000
TOTAL WATER MANAGEMENT STUDY, MISSOURI RIVER UPSTREAM OF GAVINS POINT (P-SMBP)	SP. INV.	9,000	9,000	9,000
TEXAS				
ELEPHANT BUTTE RESERVOIR-FT. QUITMAN (SEE NEW MEXICO)				

GENERAL INVESTIGATIONS—CONTINUED

Name and location of study	Type of project	Budget estimate	House allowance	Committee recommendation
LLANO-ESTACADO TOTAL WATER MANAGEMENT STUDY (SEE NEW MEXICO)				
NUECES RIVER BASIN STUDY	FEAS.	---	50,000	50,000
TEXAS BASINS	FEAS.	20,000	145,000	145,000
UTAH				
CENTRAL UTAH, UTE INDIAN UNIT	FEAS.-I,M&I,P	112,000	112,000	112,000
CRSP POWER PEAKING CAPACITY	FEAS.-P	595,000	595,000	595,000
UPPER COLORADO RESOURCE STUDY (SEE COLORADO)				
WASHINGTON				
COLUMBIA BASIN, GRAND COULEE DAM 3RD POWERPLANT EXTENSION	FEAS.-P	20,000	20,000	20,000
YAKIMA, CLE ELUM AND TIETON POWERPLANT	APPR.-P	125,000	125,000	125,000
YAKIMA VALLEY WATER MANAGEMENT STUDY	SP. INV.	125,000	125,000	125,000
WYOMING				
CRSP POWER PEAKING CAPACITY (SEE COLORADO)				
MINIDOKA, MINIDOKA POWERPLANT REHABILITATION AND ENLARGEMENT (SEE IDAHO)				
MUDDY RIDGE AREA, RIVERTON UNIT (WIND DIVISION, P-SMBP)	FEAS.	110,000	110,000	110,000
NORTH PLATTE RIVER HYDROELECTRIC POWER STUDY (OREGON TRAIL DIVISION, P-SMBP)	APPR.-P	150,000	150,000	150,000
PALISADES POWERPLANT ENLARGEMENT (SEE IDAHO)				
TOTAL WATER MANAGEMENT STUDY (P-SMBP) (SEE SOUTH DAKOTA)				
UPPER SNAKE RIVER, OAKLEY FAN DIVISION, REFORMULATION (SEE IDAHO)				
UPPER SNAKE RIVER WATER MANAGEMENT STUDY (SEE IDAHO)				

WILLWOOD POWERPLANT STUDY	APPR.	75,000	75,000	75,000
WIND-HYDROELECTRIC ENERGY INTEGRATED STUDY	SP. INV.	284,000	2,784,000	2,784,000
WIND RIVER BASIN WATER SUPPLY STUDY	APPR.	10,000	10,000	10,000
VARIOUS				
COLORADO RIVER WATER QUALITY IMPROVEMENT		1,595,000	1,595,000	1,595,000
GENERAL ENGINEERING AND RESEARCH:				
ATMOSPHERIC WATER RESOURCES MANAGEMENT PROGRAM		4,554,000	7,554,000	8,554,000
COLORADO RIV AUGMENTATION DEMONSTRATION PROGRAM		---	(500,000)	(500,000)
GENERAL PLANNING STUDIES		160,000	160,000	160,000
POWER INTERTIE STUDIES	FEAS.	15,000	15,000	15,000
SPECIAL INVESTIGATIONS:				
ENVIRONMENTAL AND INTERAGENCY COORDINATION ACTIVITIES		1,690,000	1,690,000	1,690,000
INVESTIGATIONS OF EXISTING PROJECTS		166,000	166,000	166,000
MINOR WORK IN CONNECTION WITH COMPLETED PROJECT INVESTIGATIONS		888,000	888,000	888,000
PRINT REPORTS		35,000	35,000	35,000
PROJECTS NOT YET IDENTIFIED		10,000	10,000	10,000
TOTAL, VARIOUS		9,113,000	12,113,000	13,113,000

GENERAL INVESTIGATIONS—CONTINUED

Name and location of study	Type of project	Budget estimate	House allowance	Committee recommendation
DISTRIBUTIVE CHARGES FOR SERVICE FACILITIES UNLIQUIDATED OBLIGATIONS, ETC.		-131,000	-131,000	-131,000
GENERAL REDUCTION DUE TO SLIPPAGE, SAVINGS, AND CARRYOVER BALANCES		-175,000	-300,000	-300,000
CLASSIFIED PAY RAISE (E.O.12010)		900,000	900,000	900,000
TOTAL, GENERAL INVESTIGATIONS		22,200,000	29,870,000	30,870,000

CONSTRUCTION AND REHABILITATION

Appropriations, 1978	$354, 825, 000
Budget estimate, 1979	[1] 325, 862, 000
House allowance	[2] 244, 391, 000
Committee recommendation	[2] 208, 572, 000
Comparison:	
Budget estimate	[3] −117, 290, 000
House allowance	−35, 819, 000

[1] President's amended budget request (S. Doc. 95–109) proposed adding $55,300,000 to fully fund one new construction project. On an annual incremental basis the estimate would be $270,762,000.
[2] Annual incremental funding.
[3] —$62,190,000 on annual incremental funding basis.

The Committee recommends an appropriation of $208,572,000, a decrease of $117,290,000 below the amended budget request and $35,819,000 below the House allowance.

The following table shows each project for which funds are recommended along with the budget request and House allowance.

BUREAU OF RECLAMATION

CONSTRUCTION AND REHABILITATION

State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	Budget estimate planning	House allowance construction	House allowance planning	Committee recommendation construction	Committee recommendation planning
CONSTRUCTION AND REHABILITATION EXCLUSIVE OF PICK-SLOAN MISSOURI BASIN PROGRAM								
CALIFORNIA								
CENTRAL VALLEY PROJECT:								
ALLEN CAMP UNIT	66,383,000	438,000	---	213,000	---	213,000	---	213,000
SACRAMENTO RIVER DIVISION	318,264,000	213,546,000	34,237,000	---	34,237,000	---	34,237,000	---
SAN LUIS UNIT:								
WESTLANDS DISTRIBUTION AND DRAINAGE SYSTEM	424,900,000	197,417,000	9,360,000	---	---	---	---	---
SAN LUIS DRAIN	185,320,000	51,645,000	9,500,000	---	---	---	---	---
ALL OTHER SAN LUIS UNIT FACILITIES	273,380,000	233,230,000	6,013,000	---	6,013,000	---	6,013,000	---
PANOCHE CREEK, PRECONSTRUCTION STUDY FOR FLOOD CONTROL FACILITIES	10,000,000	19,429	---	---	100,000	---	100,000	---
SUBTOTAL, SAN LUIS UNIT	893,600,000	482,311,429	24,873,000	---	6,113,000	---	6,113,000	---
AUBURN-FOLSOM SOUTH UNIT:								
AUBURN AREA FACILITIES	943,624,000	252,438,000	13,161,000	---	13,161,000	---	13,161,000	---
AUBURN DAM AND RESERVOIR	---	---	---	---	36,000,000	---	7,000,000	---
FOLSOM SOUTH AREA FACILITIES	196,548,000	40,225,000	100,000	---	100,000	---	100,000	---
ALL OTHER AUBURN-FOLSOM SOUTH UNIT FACILITIES	45,171,000	4,237,000	135,000	---	135,000	---	135,000	---
SUBTOTAL, AUBURN-FOLSOM SOUTH UNIT	1,185,343,000	296,900,000	13,396,000	---	49,396,000	---	20,396,000	---
MISCELLANEOUS PROJECT PROGRAMS	836,843,000	821,622,000	13,330,000	---	13,330,000	---	13,330,000	---
SAN FELIPE DIVISION	184,911,000	25,350,000	19,234,000	---	19,234,000	---	19,234,000	---
TOTAL, CENTRAL VALLEY PROJECT	3,485,344,000	1,840,167,429	105,070,000	213,000	122,310,000	213,000	93,310,000	213,000
COLORADO								
FRYINGPAN-ARKANSAS PROJECT	542,578,000	351,579,000	26,227,000	---	26,227,000	---	26,227,000	---
SAN LUIS VALLEY PROJECT, CLOSED BASIN DIVISION	30,640,000	1,518,000	---	500,000	600,000	---	600,000	---
IDAHO								
TETON BASIN PROJECT, LOWER TETON DIVISION	102,410,000	78,096,000	500,000	---	500,000	---	500,000	---
UPPER SNAKE RIVER PROJECT, SALMON FALLS DIVISION	93,313,000	1,269,000	---	300,000	---	300,000	---	300,000

NEW MEXICO								
BRANTLEY PROJECT	82,953,000	11,329,000	2,200,000	---	2,200,000	---	2,200,000	---
NEVADA								
SOUTHERN NEVADA WATER PROJECT	141,871,000	100,135,000	38,285,000	---	38,285,000	---	38,285,000	---
OKLAHOMA								
MCGEE CREEK	87,479,000	1,500,000	---	1,000,000	4,000,000	---	7,000,000	---
TEXAS								
NUECES RIVER PROJECT	67,548,000	40,454,000	18,600,000	---	18,600,000	---	18,600,000	---
PALMETTO BEND PROJECT	68,660,000	65,968,000	4,992,000	---	4,992,000	---	4,992,000	---
WASHINGTON								
CHIEF JOSEPH DAM PROJECT, OROVILLE-TONASKET UNIT	56,190,000	890,000	55,300,000	300,000	700,000	---	700,000	---
COLUMBIA BASIN PROJECT:								
IRRIGATION FACILITIES	2,247,901,000	787,706,000	31,365,000	---	31,365,000	---	31,365,000	---
THIRD POWERPLANT	530,000,000	520,516,000	11,120,000	---	11,120,000	---	11,120,000	---
FRANKLIN D. ROOSEVELT LAKE, FISH, WILDLIFE AND RECREATION STUDY, WASHINGTON	600,000	---	---	---	400,000	---	---	---
TOTAL, COLUMBIA BASIN PROJECT	2,778,501,000	1,308,222,000	42,485,000	---	42,885,000	---	42,485,000	---
YAKIMA PROJECT, KENNEWICK DIVISION	13,508,000	525,000	---	400,000	---	400,000	---	400,000
VARIOUS								
DRAINAGE AND MINOR CONSTRUCTION:								
ALL AMERICAN CANAL SYSTEM, COACHELLA, CALIFORNIA	64,515,000	66,476,000	2,000	---	2,000	---	2,000	---
BOISE PROJECT, PAYETTE DIVISION, IDAHO	26,478,000	26,163,000	695,000	---	695,000	---	695,000	---
HYRUM PROJECT, UTAH	830,000	830,000	830,000	---	830,000	---	830,000	---
KENDRICK PROJECT, WYOMING	35,033,000	35,033,000	350,000	---	350,000	---	350,000	---
KLAMATH PROJECT, OREGON-CALIFORNIA	29,799,000	28,787,000	1,422,000	---	1,422,000	---	1,422,000	---
LEADVILLE DRAINAGE TUNNEL PROJECT, COLORADO	2,750,000	2,285,000	1,925,000	---	1,925,000	---	1,925,000	---
LOWER RIO GRANDE PROJECT, MERCEDES DIVISION TEXAS	11,781,000	11,781,000	111,000	---	111,000	---	111,000	---
MINIDOKA PROJECT, AMERICAN FALLS DAM, IDAHO	1,200,000	1,000,000	50,000	---	50,000	---	50,000	---
MISCELLANEOUS ENGINEERING SERVICES, COLORADO	376,000	336,000	10,000	---	10,000	---	10,000	---
NEWLANDS PROJECT, SAFETY OF DAMS, CALIFORNIA-NEVADA	5,030,000	356,000	356,000	---	356,000	---	356,000	---
ORLAND PROJECT, SAFETY OF DAMS, CALIFORNIA	2,630,000	1,080,000	1,080,000	---	1,080,000	---	1,080,000	---
RAPID VALLEY PROJECT, SOUTH DAKOTA	1,200,000	200,000	200,000	---	200,000	---	200,000	---
RECREATION FACILITIES AT EXISTING RESERVOIRS, VARIOUS STATES	3,363,000	2,638,000	266,000	---	266,000	---	266,000	---
ROGUE RIVER BASIN PROJECT-SAVAGE RAPIDS DAM FISHWAY MODIFICATIONS, OREGON	1,115,000	1,115,000	305,000	---	305,000	---	305,000	---
SAFETY OF DAMS STUDIES AND MISC. CONSTRUCTION	---	---	---	---	1,000,000	---	1,000,000	---

CONSTRUCTION AND REHABILITATION--CONTINUED

State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	Budget estimate planning	House allowance construction	House allowance planning	Committee recommendation construction	Committee recommendation planning
SAN ANGELO PROJECT, TEXAS	30,160,000	28,601,000	2,000,000	---	2,000,000	---	2,000,000	---
SOLANO PROJECT-LAKE BERRYESSA RECREATIONAL FACILITIES, CALIFORNIA	3,685,000	2,640,000	775,000	---	775,000	---	775,000	---
SUN RIVER PROJECT, GIBSON DAM, MONTANA	1,000,000	400,000	600,000	---	600,000	---	600,000	---
TUALATIN PROJECT, OREGON	54,825,000	52,676,000	200,000	---	200,000	---	1,200,000	---
UMATILLA PROJECT, MCKAY DAM, OREGON	1,360,000	1,360,000	430,000	---	430,000	---	430,000	---
VENTURA RIVER PROJECT-CASITAS RESERVOIR OPEN SPACE CALIFORNIA	17,190,000	17,000,000	5,626,000	---	5,626,000	---	5,626,000	---
WASHITA BASIN PROJECT, OKLAHOMA	30,466,000	30,415,000	500,000	---	500,000	---	500,000	---
WASHOE PROJECT, NEVADA-CALIFORNIA	126,774,000	32,622,000	688,000	---	688,000	---	688,000	---
TOTAL, DRAINAGE AND MINOR CONSTRUCTION	451,560,000	343,994,000	18,421,000	---	19,421,000	---	20,421,000	---
REHABILITATION AND BETTERMENT OF EXISTING PROJECTS:								
CARLSBAD PROJECT, NEW MEXICO	5,987,000	4,681,000	400,000	---	400,000	---	400,000	---
CENTRAL OREGON IRRIGATION DISTRICT, OREGON	1,800,000	1,200,000	800,000	---	1,189,000	---	1,189,000	---
CROOKED RIVER PROJECT, OCHOCO IRRIGATION DISTRICT, OREGON	596,000	552,000	120,000	---	120,000	---	120,000	---
MINIDOKA PROJECT, BURLEY IRRIGATION DISTRICT IDAHO	1,500,000	872,000	220,000	---	220,000	---	220,000	---
MINIDOKA PROJECT, ISLAND PARK DAM, IDAHO	1,500,000	250,000	250,000	---	250,000	---	250,000	---
NEWLANDS PROJECT, NEVADA	2,815,000	2,615,000	419,000	---	419,000	---	---	---
P-SMBP, FRENCHMAN-CAMBRIDGE DIVISION, NEBRASKA	4,400,000	1,574,000	600,000	---	600,000	---	600,000	---
SALT RIVER PROJECT, ARIZONA	27,000,000	26,058,003	1,000,000	---	1,000,000	---	1,000,000	---
SHOSHONE PROJECT, GARLAND DIVISION, WYOMING	6,000,000	4,345,000	600,000	---	600,000	---	600,000	---
SUN RIVER PROJECT, GREENFIELD DIV., MONTANA	8,300,000	400,000	400,000	---	400,000	---	400,000	---
UNCOMPAHGRE PROJECT, COLORADO	2,486,000	2,481,000	189,000	---	189,000	---	189,000	---
TOTAL, REHABILITATION AND BETTERMENT OF EXISTING PROJECTS	62,184,000	45,028,000	4,998,000	---	5,387,000	---	4,968,000	---
PICK-SLOAN MISSOURI BASIN PROGRAM								
COLORADO								
NARROWS UNIT	159,645,000	5,657,023	---	---	1,500,000	---	1,500,000	---
MONTANA								
LOWER MARIAS UNIT, TIBER DAM MODIFICATIONS	49,013,000	39,833,000	3,568,000	---	3,568,000	---	3,568,000	---

NEBRASKA								
NORTH LOUP DIVISION	133,700,000	11,457,000	4,130,000	---	4,130,000	---	4,130,000	---
O'NEILL UNIT	188,140,000	11,577,000	3,758,000	---	3,758,000	---	3,758,000	---
SOUTH DAKOTA								
POLLOCK-HERREID UNIT	30,000,000	850,000	---	250,000	---	250,000	---	250,000
WYOMING								
RIVERTON UNIT	22,700,000	15,326,000	2,889,000	---	2,889,000	---	2,889,000	---
SHOSHONE EXTENSIONS UNIT, POLECAT BENCH AREA	52,410,000	758,000	---	400,000	---	400,000	---	400,000
VARIOUS								
DRAINAGE AND MINOR CONSTRUCTION:								
BOSTWICK DIVISION, NEBRASKA-KANSAS	56,947,000	52,951,000	1,078,000	---	1,078,000	---	1,078,000	---
CANYON FERRY UNIT (DUST ABATEMENT), MONTANA	13,356,000	13,356,000	418,000	---	418,000	---	418,000	---
DICKINSON UNIT, NORTH DAKOTA	4,410,000	4,410,000	3,256,000	---	3,256,000	---	3,256,000	---
EAST BENCH UNIT, MONTANA	24,230,000	22,859,000	50,000	---	50,000	---	50,000	---
FARWELL UNIT, NEBRASKA	38,480,000	37,951,000	803,000	---	803,000	---	803,000	---
FRENCHMAN-CAMBRIDGE DIVISION, NEBRASKA	82,689,000	82,504,000	145,000	---	145,000	---	145,000	---
HELENA VALLEY, MONTANA	16,018,000	15,918,000	200,000	---	200,000	---	200,000	---
OWL CREEK UNIT, MONTANA-WYOMING	6,860,000	6,516,000	70,000	---	70,000	---	70,000	---
TOTAL, DRAINAGE AND MINOR CONSTRUCTION PROGRAM	242,990,000	236,465,000	6,020,000	---	6,020,000	---	6,020,000	---
TOTAL, PICK-SLOAN MISSOURI BASIN PROGRAM	878,598,000	321,923,023	20,365,000	650,000	21,865,000	650,000	21,865,000	650,000
UNDISTRIBUTED REDUCTION BASED UPON ANTICIPATED DELAYS	---	---	-15,144,000	---	-15,144,000	---	-15,144,000	---
UNOBLIGATED BALANCES CARRIED FORWARD FROM PREVIOUS YEAR APPLIED	---	---	---	---	-50,000,000	---	-60,000,000	---
TOTAL, CONSTRUCTION AND REHABILITATION	8,943,427,000	4,512,597,452	322,299,000	3,563,000	242,828,000	1,563,000	207,009,000	1,563,000

COLUMBIA BASIN PROJECT, IRRIGATION BLOCK 26, WASHINGTON

In the development of the repayment contract for the construction of those irrigation lands located in Block 26 of the Columbia Basin project, Washington, the Secretary of the Interior is directed to include terms and conditions as set forth in repayment contract 11 R 1444 dated October 9, 1945, as amended, between the United States of America and South Columbia Basin Irrigation District.

AUBURN—FOLSOM SOUTH UNIT, CALIFORNIA

The Committee recommends an appropriation of $7,000,000 for the Auburn Dam in California. This amount together with the unobligated balances should be sufficient based on the latest information as to the time frame when work may be allowed to proceed. These funds will be available upon the completion of the review and a final determination as a result of the ongoing study and evaluations of the seismic and safety requirements.

GARRISON DIVISION UNIT, NORTH DAKOTA

The Committee has approved S. Res. 525 overturning the proposed deferral of $17,700,000 of funds appropriated in fiscal year 1978 for continued construction of the Garrison Diversion Unit. In taking this action, the Committee intends that none of the funds mandated for expenditure by this resolution should be expended in ways inconsistent with the obligations and undertakings of the U.S. Government to Canada. The Committee understands that the United States has undertaken to consult with the Government of Canada on the potential transboundary impacts of the project before certain aspects of the project potentially affecting Canada are initiated. It is the sense of this Committee that those consultations should be completed not later than the end of calendar year 1979 in order that this important project may not be unduly delayed.

There are portions and features of the project where construction activities can continue in fiscal year 1979 using the funds that were deferred. It is the Committee's firm intent and recommendation that work should proceed on those portions consistent with the Committee's intent and action on S. Res. 525.

TUALATIN PROJECT, OREGON

Immediately following the construction of the recreation road around Scoggins Reservoir of the Tualatin project by the Bureau of Reclamation, extended abnormal drought conditions occurred during the 2-year warranty period covering the road construction work. During the first heavy rainfall following the severe drought, slide areas developed in the relocated roads.

The Committee feels that Washington County, Oreg., did not receive full value from the warranty provisions of the contract. Therefore, the Committee has provided an additional $1,000,000 over the budget request and directs the Bureau of Reclamation to stabilize the slide areas and to provide road repair at the Tualatin project.

UPPER COLORADO RIVER STORAGE PROJECT

Appropriations, 1978	$67,268,000
Budget estimate, 1979	70,274,000
House allowance	87,399,000
Committee recommendation	87,399,000
Comparison:	
Budget estimate	+17,125,000
House allowance	

The Committee concurs with the House allowance of $87,399,000 which is $17,125,000 over the budget request.

The distribution of the funds recommended along with the budget request and House allowance are shown on the following table.

UPPER COLORADO RIVER STORAGE PROJECT—UPPER COLORADO RIVER BASIN FUND

State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	Budget estimate planning	House allowance construction	House allowance planning	Committee recommendation construction	Committee recommendation planning
VARIOUS								
PARTICIPATING PROJECTS								
COLORADO								
ANIMAS-LA PLATA PROJECT	282,729,000	2,969,000	---	300,000	500,000	---	500,000	---
DALLAS CREEK PROJECT	45,210,000	29,922,000	10,780,000	---	10,780,000	---	10,780,000	---
DOLORES PROJECT	186,286,000	22,586,000	14,110,000	---	14,110,000	---	14,110,000	---
FRUITLAND MESA PROJECT	92,130,000	3,041,781	---	---	---	75,000	---	75,000
SAN MIGUEL PROJECT	70,417,000	2,129,000	---	300,000	---	300,000	---	300,000
SAVERY-POT HOOK PROJECT	79,450,000	2,153,357	---	---	---	75,000	---	75,000
WEST DIVIDE PROJECT	127,858,000	1,224,000	---	200,000	---	200,000	---	200,000
NEW MEXICO								
ANIMAS-LA PLATA PROJECT (SEE COLORADO)								
UTAH								
CENTRAL UTAH PROJECT, BONNEVILLE UNIT	804,980,000	200,644,000	27,259,000	---	33,959,000	---	33,959,000	---
CENTRAL UTAH PROJECT, JENSEN UNIT	36,051,000	23,027,000	7,707,000	---	7,707,000	---	7,707,000	---
CENTRAL UTAH PROJECT, UINTAH UNIT	90,154,000	2,025,000	---	300,000	2,300,000	---	2,300,000	---
CENTRAL UTAH PROJECT, UPALCO UNIT	43,406,000	2,655,000	---	300,000	1,800,000	---	1,800,000	---
LYMAN PROJECT (SEE WYOMING)								
WYOMING								
LYMAN PROJECT	28,570,000	28,410,000	3,900,000	---	3,900,000	---	3,900,000	---
VARIOUS								
DRAINAGE AND MINOR CONSTRUCTION PROGRAM:								
COLORADO RIVER STORAGE PROJECT:								
ADDITIONS TO COMPLETED FACILITIES	7,112,000	3,550,000	2,607,000	---	2,607,000	---	2,607,000	---
PARTICIPATING PROJECTS:								
EMERY COUNTY PROJECT, UTAH	15,270,000	15,080,000	391,000	---	391,000	---	391,000	---
SAN JUAN CHAMA PROJECT, COLORADO NEW MEXICO	95,310,000	73,635,000	615,000	---	615,000	---	615,000	---
UNDISTRIBUTED REDUCTION BASED UPON ANTICIPATED DELAYS	---	---	-2,520,000	---	-2,520,000	---	-2,520,000	---
SUBTOTAL, UPPER COLORADO RIVER STORAGE PROJECT	2,004,933,000	413,051,138	64,849,000	1,400,000	76,149,000	650,000	76,149,000	650,000

RECREATIONAL AND FISH AND WILDLIFE FACILITIES:								
RECREATIONAL FACILITIES	115,935,000	30,292,000	4,000,000	---	6,635,000	---	6,635,000	---
FISH AND WILDLIFE FACILITIES	73,191,000	20,986,000	25,000	---	3,965,000	---	3,965,000	---
SUBTOTAL, RECREATIONAL AND FISH AND WILDLIFE FACILITIES	189,126,000	51,278,000	4,025,000	---	10,600,000	---	10,600,000	---
TOTAL, UPPER COLORADO RIVER STORAGE	2,194,059,000	464,329,138	68,874,000	1,400,000	86,749,000	650,000	86,749,000	650,000

COLORADO RIVER BASIN PROJECT

Appropriations, 1978	$78, 145, 000
Budget estimate, 1979	73, 770, 000
House allowance	74, 770, 000
Committee recommendation	74, 770, 000
Comparison:	
Budget estimate	+1, 000, 000
House allowance	

An appropriation of $74,770,000, the same as the House allowance and $1,000,000 over the budget request is recommended by the Committee.

The disasterous flood on the Salt and Verde Rivers in March of this year demonstrated more than ever the need for flood control and water storage capabilities which were to be provided by the Orme Dam Reservoir.

For this reason, the Committee has provided an additional $1,000,000 and urges the Bureau of Reclamation to expedite the necessary environmental statement to avoid additional loss of life and unnecessary property damage. However, the Committee expects any study process involving the proposed dam and possible alternatives to be objective, systematic, and detailed, and to include social and economic, as well as environmental considerations.

The funds allowed by the Committee will provide for the following work in fiscal year 1979:

Granite Reef Division	$66, 096, 000
Transmission facilities	3, 261, 000
Preconstruction activities	4, 049, 000
Miscellaneous items	364, 000
Reevaluation of Orme Dam	1, 000, 000
Total	74, 770, 000

COLORADO RIVER BASIN SALINITY CONTROL PROJECTS

Appropriations, 1978	$22, 675, 000
Budget estimate, 1979	42, 315, 000
House allowance	27, 315, 000
Committee recommendation	17, 315, 000
Comparision:	
Budget estimate	−25, 000, 000
House allowance	−10, 000, 000

The Committee recommends an appropriation of $17,315,000 which is $10,000,000 below the House allowance and $25,000,000 below the budget request.

Of the total program reduction of $25,000,000 below the budget request, $22,500,000 is due to contract delay on Measures Below Imperial Dam and $2,500,000 is due to delay relating to water rights issues on the Las Vegas Wash Unit in Nevada.

Recommended allocations are as follows:

COLORADO RIVER BASIN SALINITY CONTROL PROJECTS FISCAL YEAR 1979

State and project	Total estimated Federal cost	Allocated to date	Budget estimate construction	House allowance construction	Committee recommendation construction
COLORADO RIVER BASIN SALINITY CONTROL PROJECTS					
TITLE II					
COLORADO					
GRAND VALLEY SYSTEMS IMPROVEMENT AND MANAGEMENT UNIT	130,145,000	7,834,000	4,159,000	4,159,000	4,159,000
PARADOX VALLEY UNIT	50,235,000	5,629,000	2,358,000	2,358,000	2,358,000
NEVADA					
LAS VEGAS WASH UNIT	59,000,000	13,824,000	6,916,000	6,916,000	6,916,000
TOTAL, TITLE II	239,380,000	27,287,000	13,433,000	13,433,000	13,433,000
VARIOUS					
TITLE I					
MEASURES BELOW IMPERIAL DAM	333,692,000	136,727,000	28,882,000	28,882,000	28,882,000
UNOBLIGATED BALANCES CARRIED FORWARD FROM PREVIOUS YEAR APPLIED	---	---	---	-15,000,000	-25,000,000
TOTAL, COLORADO RIVER BASIN SALINITY CONTROL PROJECTS	573,072,000	164,014,000	42,315,000	27,315,000	17,315,000

OPERATION AND MAINTENANCE

Appropriations, 1978	$78,489,000
Budget estimate, 1979	87,873,000
House allowance	87,873,000
Committee recommendation	86,373,000
Comparison:	
Budget estimate	−1,500,000
House allowance	−1,500,000

The Committee recommends an appropriation of $86,373,000, which is $1,500,000 below both the House allowance and budget request.

In 1979, a total of 31 project areas, or divisions of projects will be operated and maintained for power, municipal and industrial water supplies, irrigation, and other benefits with funds made available under this appropriation.

The reduction of $1,500,000 is recommended due to continuing litigation which prevents the Bureau of Reclamation from providing operation and maintenance of the Newlands project.

LOAN PROGRAM

Appropriations, 1978	$27,753,000
Budget estimate, 1979	[1] 88,226,000
House allowance	[2] 38,745,000
Committee recommendation	[2] 36,366,000
Comparison:	
Budget estimate	[3] −51,860,000
House allowance	−2,379,000

[1] President's amended budget request (S. Doc. 95–109) proposed adding $65,195,000 to fully fund eight new loans. On an annual incremental basis the estimate would be $38,886,000.
[2] Annual incremental funding.
[3] −$2,520,000 on annual incremental funding basis.

An appropriation of $36,366,000 is recommended by the Committee. This is $2,379,000 below the House allowance and $51,860,000 below the budget request.

This appropriation provides for loans to non-Federal organizations for construction and rehabilitation of distribution systems and for loans and grants to construct small irrigation projects.

Funds provided under this heading are distributed as shown in the following table:

Loan Program

State and project	Total estimated Federal cost	Allocated to date	Budget estimate	House allowance	Committee recommendation
ARIZONA					
GILA RIVER FARMS	9,915,000	6,919,000	3,000,000	3,000,000	3,000,000
CALIFORNIA					
ALPAUGH IRRIGATION DISTRICT	1,397,000	---	---	706,000	---
DELUZ HEIGHTS MUNICIPAL UTILITIES DISTRICT	5,339,000	5,339,000	1,885,000	1,885,000	1,885,000
GLENN-COLUSA IRRIGATION DISTRICT	16,985,000	---	16,985,000	4,750,000	4,750,000
KANAWHA WATER DISTRICT, IMPROVEMENT DISTRICT NO. 2	3,760,000	3,760,000	1,296,000	1,296,000	1,296,000
KANAWHA WATER DISTRICT, IMPROVEMENT DISTRICT NO. 3	2,996,000	2,996,000	2,526,000	2,526,000	2,526,000
LA GRANDE WATER DISTRICT	1,018,000	---	---	873,000	---
PLEASANT VALLEY COUNTY WATER DISTRICT	4,685,000	---	4,685,000	4,685,000	4,685,000
RAINBOW MUNICIPAL WATER DISTRICT	9,899,000	---	9,899,000	2,114,000	2,114,000
WESTSIDE WATER DISTRICT	7,980,000	7,980,000	3,750,000	3,750,000	3,750,000
COLORADO					
JOE WRIGHT RESERVOIR ENLARGEMENT	7,127,000	7,127,000	5,177,000	5,177,000	5,177,000
OVERLAND DITCH AND RESERVOIR COMPANY	1,677,000	---	1,677,000	386,000	386,000
MONTANA					
WEST BENCH IRRIGATION DISTRICT	3,147,000	---	3,147,000	1,000,000	1,000,000
NEBRASKA					
WAITNEY, NEBRASKA IRRIGATION DISTRICT	1,674,000	1,674,000	674,000	674,000	674,000

LOAN PROGRAM—CONTINUED

State and project	Total estimated Federal cost	Allocated to date	Budget estimate	House allowance	Committee recommendation
TEXAS					
CAMERON COUNTY WATER IMPROVEMENT DISTRICT NO. 19.....	2,063,000	2,063,000	250,000	250,000	250,000
HILDAGO AND WILLACY COUNTIES WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1.....	10,982,000	---	10,982,000	200,000	200,000
HILDAGO COUNTY WATER IMPROVEMENT DISTRICT NO. 2.....	16,100,000	---	16,100,000	1,000,000	1,000,000
HIDALGO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1.....	7,501,000	3,000,000	2,000,000	2,000,000	2,000,000
HIDALGO COUNTY WATER IMPROVEMENT DIST. NO. 5.....	3,835,000	2,860,000	1,000,000	1,000,000	1,000,000
UTAH					
SOUTH WEBER WATER IMPROVEMENT DISTRICT.....	1,720,000	---	1,720,000	1,720,000	1,720,000
VARIOUS					
ADMINISTRATION OF LOAN PROGRAM.....	6,520,000	4,631,000	441,000	441,000	441,000
CONSTRUCTIVE COST INCREASES (P.L. 94-181).....	18,000,000	6,000,000	3,000,000	3,000,000	3,000,000
UNDISTRIBUTED REDUCTION BASED ON ANTICIPATED DELAYS...	---	---	-1,968,000	-3,688,000	-4,488,000
TOTAL, LOAN PROGRAM.....	144,320,000	54,349,000	88,226,000	38,745,000	36,366,000

GENERAL ADMINISTRATIVE EXPENSES

Appropriations, 1978	$23,665,000
Budget estimate, 1979	25,250,000
House allowance	25,250,000
Committee recommendation	25,250,000
Comparison:	
Budget estimate	
House allowance	

The Committee recommends concurrence with the House allowance of $25,250,000, the same as the budget request.

The Committee has provided a total of 7,800 full-time permanent positions for the Bureau of Reclamation. Testimony presented to the Committee shows the increased difficulties of the Bureau in carrying out the programs approved by the Congress with artifically low manpower ceiling allocations. The Bureau will be expected to keep the congressionally approved program on schedule with the personnel allocation included in the bill.

GENERAL

The Committee concurs with the House Committee in providing no funds in the bill to fund the working capital fund to augment the Office of the Secretary. The activities of the Office of the Secretary are funded directly to the Secretary in the Interior and Related Agencies Appropriation Bill.

Office of the Secretary

WATER RESOURCES PLANNING

Appropriations, 1978	[1]
Budget estimate, 1979	[1]
House allowance	$9,653,900
Committee recommendation	[2]
Comparison:	
Budget estimate	
House allowance	−9,653,900

[1] Submitted under the Water Resources Council.
[2] Funding provided under the Water Resources Council.

The Committee recommends that the water resource planning activities provided by the House under the Department of the Interior, Office of the Secretary be conducted by Water Resources Council as proposed in the budget request for fiscal 1979, and in accord with the Senate authorizing legislation.

TITLE IV—INDEPENDENT AGENCIES

Appalachian Regional Commission

SALARIES AND EXPENSES

Appropriations, 1978	$2,075,000
Budget estimate, 1979	2,220,000
House allowance	2,220,000
Committee recommendation	2,220,000
Comparison:	
Budget estimate	----------
House allowance	----------

The Committee recommends concurrence with the House allowance, which is the same as the budget request.

The appropriation for salaries and expenses provides for the full cost of the Federal Cochairman and his immediate staff and the contribution by the Federal Government of 50 percent of the administrative expenses of the Appalachian Regional Commission.

Appalachian Regional Development Programs

(FUNDS APPROPRIATED TO THE PRESIDENT)

Appropriations, 1978	$323,700,000
Budget estimate, 1979	343,700,000
House allowance	374,000,000
Committee recommendation	368,700,000
Comparison:	
Budget estimate	+25,000,000
House allowance	−5,300,000

An appropriation of $368,700,000 is recommended for the Appalachian Regional Development Programs, an increase of $25,000,000 over the budget request and $5,300,000 below the House allowance.

It is the Committee's general policy not to make a specific allocation to individual projects and items. The recommendations provide an increase in both the highway and area development programs based on the priorities as testified to by the Commission and the member States, and to more closely match existing needs within the region.

The recommended appropriation is distributed as follows:

	Budget estimate	House allowance	Committee recommendation
Highways:			
Development highway system	$210,000,000	$225,970,000	$215,000,000
Access road program	9,000,000	18,000,000	14,000,000
Administration and special planning	2,000,000	2,030,000	2,000,000
Area development	115,000,000	120,000,000	130,000,000
Research and local development districts	7,700,000	8,000,000	7,700,000
Total	343,700,000	374,000,000	368,700,000

Delaware River Basin Commission

SALARIES AND EXPENSES

Appropriations, 1978	$87,000
Budget estimate, 1979	102,000
House allowance	102,000
Committee recommendation	102,000
Comparison:	
Budget estimate	-------
House allowance	-------

The Committee concurs with the House allowance of $102,000, the same as the budget request.

The Delaware River Basin Commission was created by compact between the Federal Government and the States of Delaware, New York, New Jersey, and the Commonwealth of Pennsylvania to enable joint participation in the development of water and related resources in the Delaware River Basin region. This appropriation provides for the salaries and expenses of the U.S. Commissioner and his staff in representing the interest of the Federal Government in the Delaware River Basin Commission.

CONTRIBUTION TO THE DELAWARE RIVER BASIN COMMISSION

Appropriations, 1978	$232,000
Budget estimate, 1979	245,000
House allowance	545,000
Committee recommendation	245,000
Comparison:	
Budget estimate	-------
House allowance	−300,000

The Committee recommends concurrence with the budget request of $245,000, the full U.S. share of the current expenses of the Commission's total budget of $925,000.

The Committee does not concur with the House action which provides a $300,000 direct appropriation to the Delaware River Basin Commission to conduct a comprehensive basinwide ground water analysis. This type of effort should be included in the current expense budget as provided by legislation establishing the Commission.

Interstate Commission on the Potomac River Basin

CONTRIBUTION TO THE INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

Appropriations, 1978	$53,000
Budget estimate, 1979	53,000
House allowance	55,000
Committee recommendation	55,000
Comparison:	
Budget estimate	+2,000
House allowance	-------

The Committee recommends an appropriation of $55,000, the same as the House allowance which is $2,000 over the budget request.

The Interstate Commission on the Potomac River Basin was created in 1949 by a compact among the four States in the basin, Maryland, Virginia, Pennsylvania and West Virginia plus the District of Columbia and the Federal Government.

The Commission has the responsibility for basinwide water quality planning program coordination and assistance.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

Appropriations, 1978	$281,423,000
Budget estimate, 1979	330,670,000
House allowance	321,487,000
Committee recommendation	328,287,000
Comparison:	
Budget estimate	−2,383,000
House allowance	+6,800,000

An appropriation of $328,287,000 is recommended by the Committee. This is $2,383,000 below the budget request and $6,800,000 over the House allowance.

The Nuclear Regulatory Commission is responsible for the review and licensing involved with applications to construct and operate nuclear power plants, the licensing of various noncivilian power nuclear facilities, research in nuclear safety, the development of standards, the inspection of operating nuclear plants, the development of safeguards systems and various studies.

As in past years, the Committee continues to have serious concerns about the length of time necessary to bring a nuclear power plant into operation, and fully concurs with the House Committee regarding reactor licensing procedures.

The Committee recommendation partially restores reductions made by the House and makes additional changes as follows:

(1) Restores the $2,300,000 reduction in Nuclear Reactor Regulation licensing and review activities.

(2) Includes the $6,200,000 reduction for systems engineering and other Nuclear Regulatory Research activities.

(3) A reduction of $1,000,000 of the House increase for gas cooled reactor efforts.

(4) Restores $300,000 for personnel compensation.

(5) A reduction of $1,000,000 for advanced converter and gas cooled reactors added by the House.

The recommended action restores to the requested level, as appealed by the Commission, the 24 personnel positions deleted by the House for a total of 2,788 full-time employees of the Commission.

None of the funds made available to the Commission shall be used directly or indirectly for financial assistance to or paying costs of intervenors in any of the proceedings or work of the Commission.

The following table shows the distribution of the funds recommended by the Committee:

	1978 appropriation [1]	Budget estimate	House allowance	Committee recommendation
Nuclear reactor regulation	$41,730,000	$46,010,000	$45,210,000	$46,510,000
Standards development	13,530,000	14,480,000	14,480,000	14,480,000
Inspection and enforcement	31,830,000	38,760,000	38,560,000	38,560,000
Nuclear materials safety and safeguards	21,632,000	26,600,000	26,585,000	26,585,000
Nuclear regulatory research	139,734,000	163,470,000	158,186,000	163,470,000
Program technical support	10,870,000	13,400,000	13,064,000	13,112,000
Program direction and administration	24,562,000	27,950,000	27,492,000	27,660,000
Total	283,888,000	330,670,000	323,577,000	330,377,000
Reduction in travel, compensation and administrative support costs			−2,090,000	−2,090,000
Total	283,888,000	330,670,000	321,487,000	328,287,000

[1] Includes $2,465,000 in unobligated balances from prior years.

Susquehanna River Basin Commission

SALARIES AND EXPENSES

Appropriations, 1978	$88,000
Budget estimate, 1979	102,000
House allowance	102,000
Committee recommendation	102,000
Comparison:	
Budget estimate	-------
House allowance	-------

The Committee concurs with the House allowance of $102,000, the same as the budget request.

This appropriation will provide for the costs of the U.S. Commissioner and his staff in representing interests of the Federal Government of the Susquehanna River Basin Commission.

CONTRIBUTION TO THE SUSQUEHANNA RIVER BASIN COMMISSION

Appropriations, 1978	$200,000
Budget estimate, 1979	200,000
House allowance	500,000
Committee recommendation	200,000
Comparison:	
Budget estimate	----------
House allowance	−300,000

The Committee recommendation provides $200,000, the full budget request which is $300,000 below the House allowance.

The budgeted funds represent the Federal Government's share of the Commission's total budget of $1,113,776. The Committee allowance does not include a direct appropriation of $300,000 to initiate a groundwater study in the Susquehanna River Basin. The Committee believes that this type of effort should be included as part of the current expense budget of the Commission as provided by the legislation establishing the Commission.

Tennessee Valley Authority

PAYMENT TO THE TENNESSEE VALLEY AUTHORITY FUND

Appropriations, 1978	$138,510,000
Budget estimate, 1979	134,635,000
House allowance	154,531,000
Committee recommendation	151,531,000
Comparison:	
Budget estimate	+16,896,000
House allowance	−3,000,000

An appropriation of $151,531,000 is recommended for fiscal 1979 by the Committee. This is $16,896,000 over the budget request and $3,000,000 below the House allowance.

The Committee has restored to the budgeted level the House reductions for Land Between the Lakes capital improvements and operating expenses. The following changes are also recommended:

(1) An increase of $5,000,000 for Columbia Dam unit of the Duck River project for continued construction.

(2) An additional increase of $6,000,000 over the House allowance of $9,290,000 for energy demonstration programs. Included within the recommendation is $7,000,000 for Atmospheric Fluidized Bed Combustion technology, and $1,000,000 for solar energy demonstrations.

The following table shows the allocation of the funds recommended for the activities under this appropriation account.

TENNESSEE VALLEY AUTHORITY

	Budget estimate	House allowance	Committee recommendation
Capital budget:			
Duck River project (Columbia unit)	$7,000,000	$26,000,000	$31,000,000
Bear Creek multipurpose water control system	7,479,000	7,479,000	7,479,000
Tellico Dam and Reservoir	1,846,000	1,846,000	1,846,000
Pickwick Landing Dam (new lock)	20,000,000	20,000,000	20,000,000
Bridgeport railroad bridge	2,011,000	2,011,000	2,011,000
Various water resources development additions and improvements	2,838,000	2,838,000	2,838,000
Recreation facilities	988,000	988,000	988,000
Land Between the Lakes	3,000,000	2,550,000	3,000,000
South Chickamauga Creek community development	1,362,000	1,362,000	1,362,000
Local flood damage prevention facilities	1,980,000	1,980,000	1,980,000
National fertilizer development program	4,776,000	4,776,000	4,776,000
Energy demonstration program: ammonia from coal facilities	10,971,000	10,971,000	10,971,000
General service activities	4,847,000	4,847,000	4,847,000
Total, capital budget	69,098,000	87,648,000	93,098,000
Operating expenses:			
Water resources development	11,576,000	11,576,000	11,576,000
Natural resources development	10,535,000	10,231,000	10,231,000
Land Between the Lakes	4,600,000	4,500,000	4,600,000
Community resources development	7,126,000	6,876,000	6,876,000
National fertilizer development program	22,480,000	22,480,000	22,480,000
Energy demonstration program	7,290,000	9,290,000	15,290,000
General services activities	1,930,000	1,930,000	1,930,000
Total, operating expenses	65,537,000	66,883,000	72,983,000
General reduction-unobligated balances, savings and slippage			−14,550,000
Total appropriation	134,635,000	154,531,000	151,531,000

TELLICO AND DUCK RIVER PROJECTS

The bill contains $1,846,000 necessary to complete the Tellico Reservoir project in east Tennessee. The project was begun in 1967 to provide power, flood control, enhanced water supply and recreation opportunities, and navigation and industrial development bringing jobs to an area plagued by low incomes and the outmigration of its young. Over the years this Committee has closely reviewed the controversy concerning the project's impact on the snail darter, a small fish listed under the Endangered Species Act, as well as the other economic and environmental pros and cons of the project. The issues have recently been reexamined by the Committee in connection with a review of the GAO Tellico study and TVA's comments on the study as well as other information developed during the hearings. It is not believed that a new study to redetermine the benefits and costs of a 95-percent completed project is warranted or appropriate. The Committee strongly believes that the Tellico project should be completed and used in the public interest. Adequate provision has been made to preserve or mitigate the loss of important historical, archaeo-

logical, and other resources, including the relocation of the snail darter, during the construction of this project; and it is now time to realize the benefits from the taxpayers' $117,000,000 investment. The Committee recommends approval of these funds to complete the project so that it may be utilized as designed.

The Committee also recommends the appropriation of $31,000,000 for the continued construction of the Columbia Dam portion of the Duck River project in middle Tennessee, which is facing a similar problem as a result of the listing of several species of mussels and snails as endangered. The project, which has the strong support of the State and local governments, which support includes the contribution of over $16,000,000 of the project costs, will provide needed flood control, recreation, water supply, and other benefits for a growing area. The Committee recommends the appropriation of these funds and directs TVA to continue project construction on an efficient level.

Further, the Committee directs the Tennessee Valley Authority to proceed with land acquisition for the Columbia Dam project in accordance with the project design which has been justified to Congress since 1968.

The funds in the bill are for land acquisition of the 27,000-acre project and shall not be limited to any alternative design unless specifically approved by the Congress.

UTILITY RATES INCREASES

The Committee is concerned by the inflationary impact of the recent rapid increases in TVA rates, including the 8.5 percent increase which went into effect in July 1978, which follows an approximately 12 percent increase during the preceeding year. The Committee directs that TVA make maximum effort to cut and control costs as the means to avoid short term operating losses in lieu of reliance on rate increases. The latter recourse which serves in the short term to solve the immediate problem imposes inflationary pressures on the economy of both the TVA service area and surrounding areas in nearby States.

Water Resources Council

WATER RESOURCES PLANNING

Appropriations, 1978	$13,696,000
Budget estimate, 1979	11,560,000
House allowance	[1](9,653,900)
Committee recommendation	11,773,900
Comparison:	
Budget estimate	+213,900
House allowance	+11,773,900

[1] Funding provided under Department of the Interior, Office of the Secretary.

The Committee recommends an appropriation of $11,773,900, an increase of $2,120,000 over the House allowance and $213,900 over the budget request.

The distribution of the recommended appropriations is shown in the following table:

Program	Budget estimate	House allowance	Committee recommendation
Administration and coordination	$1,320,000		$1,320,000
River basin commissions	2,886,000	$2,886,000	2,886,000
Planning grants to States	3,000,000	3,000,000	3,000,000
Comprehensive planning:			
Level B and special studies	2,346,000	3,767,900	3,459,900
Nontitle II RBC entities	660,000		660,000
Water assessment and appraised programs	1,348,000		1,348,000
Reduction for anticipated unobligated carryover balances			−900,000
Total	11,560,000	9,653,900	11,773,900

In making the above recommendations the Committee has taken into consideration authorizing legislation extending the authority of the Water Resources Council for 1 year and has provided funding pursuant to that legislation and the budget request.

Within the allocation for level B and special studies, the Committee has provided $828,900 for the Columbia River estuary study, $135,000 for the Hudson River Level B study, and $150,000 for the Connecticut River Basin case studies of application of cost sharing policy options for flood plain management. A total of $3,000,000 is recommended for title III planning grants to States, the full budget request.

BUDGETARY IMPACT OF H.R. 12928[1]

[Dollars in millions]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
I. Comparison of amounts in the bill with the Committee allocation to its subcommittees of amounts in the First Concurrent Resolution for 1979: Subcommittee on Public Works	$10,800	$10,121	$10,000	[2] $9,468
II. Summary of functional category of 1979 budget amount recommended in the bill:				
050—National Defense		2,661		[1] 2,427
250—General Science, Space, and Technology		430		[2] 397
270—Energy		3,327		[3] 3,035
300—Natural Resources and Environment		3,225		[3] 3,170
450—Community and Regional Development		522		[3] 439
III. Financial assistance to State and local governments for 1979 in the bill		426		28
IV. Projections of outlays associated with budget authority recommended in the bill:				
1979				[3] 5,013
1980				3,493
1981				1,105
1982				270
1983				239
Future year				

[1] Prepared by the Congressional Budget Office pursuant to section 308a, Public Law 94–344.
[2] Includes outlays from prior year budget authority.
[3] Excludes outlays from prior year budget authority.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1978 AND THE BUDGET ESTIMATES FOR FISCAL YEAR 1979

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are not included in the accompanying bill.]

Agency and item	New budget (obligational) authority, 1978	Budget estimates of new (obligational) authority, 1979	Increase or decrease
(1)	(2)	(3)	(4)
PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY			
FEDERAL FUNDS			
Corps of Engineers - Civil: Permanent appropriations..	$ 7,470,000	$ 6,200,000	$ -1,270,000
Department of the Interior: Reclamation: Miscellaneous appropriations.....	2,700,000	2,700,000	---
Department of Energy: Payments to States under Federal Power Act.....	85,000	85,000	---
Total, permanent new budget (obligational) authority, Federal funds.....	10,255,000	8,985,000	-1,270,000
PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY			
TRUST FUNDS			
Corps of Engineers - Civil: Trust Funds.....	33,500,000	35,000,000	+1,500,000
Department of the Interior: Reclamation trust funds...	13,331,000	4,470,000	-8,861,000
Department of Energy: Advances for cooperative work...	5,519,000	2,480,000	-3,039,000
Appalachian Regional Commission: Miscellaneous trust fund accounts.....	4,110,000	4,270,000	+160,000
Water Resources Council: River Basin Commissions.....	8,016,000	5,623,000	-2,393,000
Total, permanent new budget (obligational) authority, Trust funds.....	64,476,000	51,843,000	-12,633,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN

[Amounts

Item	1978 Appropriation	Budget estimate
TITLE I		
DEPARTMENT OF ENERGY		
Energy Science and Defense Activities		
Operating expenses	4,478,255,000	4,881,368,000
Plant and capital equipment	1,618,849,000	1,438,416,000
Total, Energy science and defense activities	6,097,104,000	6,319,784,000
Power Marketing Activities		
Operations and construction	120,454,000	143,573,000
Federal Energy Regulatory Commission		
Salaries and expenses	34,133,000	43,670,000
Geothermal Resources Development Fund	15,000,000	---
Special foreign currency program	1,500,000	2,000,000
Total, title I, new budget (obligational) authority, Department of Energy	6,268,191,000	6,509,027,000
TITLE II - DEPARTMENT OF DEFENSE - CIVIL		
Department of the Army		
Corps of Engineers - Civil		
General investigations	103,646,000	109,270,000
Construction, general	1,523,820,000	1,795,595,000
Flood control, Mississippi River and tributaries	253,081,000	204,000,000
Alaska hydroelectric power development fund	5,450,000	---
Operation and maintenance, general	745,370,000	750,500,000
Revolving fund	21,525,000	22,000,000
Flood control and coastal emergencies	18,000,000	20,000,000
General expenses	56,800,000	66,500,000
Special recreation use fees	6,000,000	3,300,000
Total, title II, new budget (obligational) authority, Department of Defense - Civil	2,733,692,000	2,971,165,000
TITLE III - DEPARTMENT OF THE INTERIOR		
Bureau of Reclamation		
General investigations	25,106,000	22,200,000
Construction and rehabilitation	354,825,000	326,362,000
Upper Colorado River Storage Project	67,268,000	70,274,000
Colorado River Basin project	78,145,000	73,770,000
Colorado River Basin Salinity Control projects	22,675,000	42,315,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES THE BILL FOR FISCAL YEAR 1979

in dollars]

House allowance	Committee recommendation	Increase (+) or decrease (−) compared with—		
		1978 Appropriation	Budget estimate	House allowance
4,865,437,000	4,839,850,000	+361,595,000	−41,518,000	−25,587,000
1,120,856,000	1,005,771,000	−813,078,000	−432,645,000	−115,085,000
5,986,293,000	5,845,621,000	−251,483,000	−474,163,000	−140,672,000
143,473,000	145,473,000	+25,019,000	+1,900,000	+2,000,000
51,300,000	51,300,000	+17,167,000	+7,630,000	---
---	---	−15,000,000	---	---
2,000,000	2,000,000	+500,000	---	---
6,183,066,000	6,044,394,000	−223,797,000	−464,633,000	−138,672,000
140,014,000	137,138,000	+33,492,000	+27,868,000	−2,876,000
1,392,515,000	1,354,147,000	−169,673,000	−441,448,000	−38,368,000
232,930,000	223,035,000	−30,046,000	+19,035,000	−9,895,000
---	---	−5,450,000	---	---
795,500,000	795,500,000	+50,130,000	+45,000,000	---
29,000,000	46,000,000	+24,475,000	+24,000,000	+17,000,000
20,000,000	20,000,000	+2,000,000	---	---
66,500,000	66,500,000	+9,700,000	---	---
3,300,000	3,300,000	−2,700,000	---	---
2,679,759,000	2,645,620,000	−88,072,000	−325,545,000	−34,139,000
29,870,000	30,870,000	+5,764,000	+8,670,000	+1,000,000
244,391,000	208,572,000	−146,253,000	−117,790,000	−35,819,000
87,399,000	87,399,000	+20,131,000	+17,125,000	---
74,770,000	74,770,000	−3,375,000	+1,000,000	---
27,315,000	17,315,000	−5,360,000	−25,000,000	−10,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AND AMOUNTS RECOMMENDED IN THE

(Amounts

Item	1978 Appropriation	Budget estimate
Operation and maintenance	78,489,000	87,873,000
Loan program	27,753,000	88,226,000
General administrative expenses	23,665,000	25,250,000
Total, Bureau of Reclamation	677,926,000	736,270,000
Office of the Secretary		
Water resources planning	---	---
Total, title III, new budget (obligational) authority, Department of the Interior	677,926,000	736,270,000
TITLE IV - INDEPENDENT OFFICES		
Appalachian Regional Commission: Salaries and Expenses	2,075,000	2,220,000
Appalachian regional development programs (Funds appropriated to the President)	323,700,000	343,700,000
Delaware River Basin Commission:		
Salaries and expenses	87,000	102,000
Contribution to Delaware River Basin Commission	232,000	245,000
Total, Delaware River Basin Commission	319,000	347,000
Interstate Commission on the Potomac River Basin: Contribution to Interstate Commission on the Potomac River Basin	53,000	53,000
Nuclear Regulatory Commission: Salaries and Expenses	281,423,000	330,670,000
Susquehanna River Basin Commission:		
Salaries and expenses	88,000	102,000
Contribution to Susquehanna River Basin Commission	200,000	200,000
Total, Susquehanna River Basin Commission	288,000	302,000
Tennessee Valley Authority: Payment to Tennessee Valley Authority fund	138,510,000	134,635,000
Water Resources Council: Water Resource Planning	13,696,000	11,560,000
Total, title IV, new budget (obligational) authority, independent offices	760,064,000	823,487,000
RECAPITULATION		
Total, titles II, III and IV (excluding Department of Energy): new budget (obligational) authority	4,171,682,000	4,530,922,000
Total, titles I, II, III and IV: New budget (obligational) authority	10,439,873,000	11,039,949,000

AUTHORITY FOR FISCAL YEAR 1978 AND BUDGET ESTIMATES BILL FOR FISCAL YEAR 1979—Continued

in dollars]

House allowance	Committee recommendation	Increase (+) or decrease (—) compared with—		
		1978 Appropriation	Budget estimate	House allowance
87,873,000	86,373,000	+7,884,000	-1,500,000	-1,500,000
38,745,000	36,366,000	+8,613,000	-51,860,000	-2,379,000
25,250,000	25,250,000	+1,585,000	---	---
615,613,000	566,915,000	-111,011,000	-169,355,000	-48,698,000
9,653,900	---	---	---	-9,653,900
625,266,900	566,915,000	-111,011,000	-169,355,000	-58,351,900
2,220,000	2,220,000	+145,000	---	---
374,000,000	368,700,000	+45,000,000	+25,000,000	-5,300,000
102,000	102,000	+15,000	---	---
545,000	245,000	+13,000	---	-300,000
647,000	347,000	+28,000	---	-300,000
55,000	55,000	+2,000	+2,000	---
321,487,000	328,287,000	+46,864,000	-2,383,000	+6,800,000
102,000	102,000	+14,000	---	---
500,000	200,000	---	---	-300,000
602,000	302,000	+14,000	---	-300,000
154,531,000	151,531,000	+13,021,000	+16,896,000	-3,000,000
---	11,773,900	-1,922,100	+213,900	+11,773,900
853,542,000	863,215,900	+103,151,900	+39,728,900	+9,673,900
4,158,567,900	4,075,750,900	-95,931,100	-455,171,100	-82,817,000
10,341,633,900	10,120,144,900	-319,728,100	-919,804,100	-221,489,000

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95TH CONGRESS } SENATE { REPORT
2d Session } { No. 95-1070

AMENDING THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

AUGUST 8 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. NELSON, from the Select Committee on Small Business, submitted the following

REPORT

[To accompany H.R. 11318]

The Select Committee on Small Business, to which was referred the bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1958 having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

COMMITTEE CONSIDERATION AND LEGISLATIVE HISTORY

At two markup sessions on June 19 and July 22, 1978, the committee considered five billls to amend the Small Business Act and the Small Business Investment Act of 1958.

Title I amends the Small Business Investment Act of 1958 to make changes in the minority enterprise small business investment company program (section 301(d) SBIC's) and the surety bond guarantee program.

Chapter 1 of this title amends sections that affect section 301(d) small business investment companies. This chapter's language is essentially the same as S. 2156, which was introduced by Senator Gaylord Nelson on September 29, 1977. The bill's cosponsors include Senators Nunn, Weicker, Tower, Matsunaga, and Glenn. The measure was considered at a hearing on October 3, 1977.

Chapter 2 of this title amends sections that authorize the surety bond guarantee program. This title's language is based on S. 836, which was introduced on March 1, 1977 by Senator Dewey Bartlett. The measure was considered at a hearing on June 19, 1978.

Title II amends the Small Business Act to make changes in programs authorized under sections 7(j) and 8(a) as well as to authorize expanded subcontracting authorities for the SBA.

Chapter 1 of title II expands the section 7(j) management assistance programs, which are known as "call contracting." This chap-

ter's language is the same as S. 3179, which was introduced on June 7, 1978 by Senator Sam Nunn. The bill's cosponsors include Senators Chiles, Johnston, Hollings, Bartlett, Huddleston, and Sasser. Hearings were held on a proposed version of the bill on March 16, and March 20, 1978.

Chapter 2 of title II amends section 8(a) of the Small Business Act to provide eligibility standards for the 8(a) authority. Hearings were held on February 6, February 16, and March 20, 1978 to review matters relating to eligibility standards for the 8(a) authority.

Chapter 3 of title II amends the Small Business Act to provide for expanded small business subcontracting requirements on all Federal contracts. The language of this chapter is derived from S. 2259, which was introduced by Senators Gaylord Nelson and William Hathaway on October 28, 1977. Hearings were held on the measure on February 7, and April 18, 1978.

Purpose

Title I is divided into 2 chapters. Chapter 1 lowers the interest rate which section 301(d) SBIC's pay on debentures purchased by SBA. It also lowers the dividend rate on preferred stock purchased by SBA in section 301(d) SBIC's and increases the amount of preferred stock SBA can purchase in a section 301(d) SBIC. The interest rate on debentures and the dividend rate on preferred stock is set at 3 percent. The purpose of these changes is to spur greater activity by section 301(d) SBIC's. Up to now, the 301(d) SBIC's have been relatively inactive, partially because of the uncertain nature of Federal subsidies. The subsidies are increased in this bill to remove the primary reason for sluggishness in the 301(d) SBIC program.

Chapter 2 makes changes in the surety bond guarantee program. The most important change involves the setting of specific standards under which SBA can deny liability on a bond. SBA can deny liability if there is fraud or material misrepresentation on the part of the surety when applying for a bond or for reimbursement for payments made after a breach. SBA can also deny liability if the bond value exceeds $1 million, the program's statutory bonding limit. SBA is authorized to set performance standards for and further regulate sureties in the program. The purpose of these changes is to remove some operational problems in the surety bond guarantee program and thus make it more attractive to many surety companies. It is hoped that these changes will result in easing the bonding problems of small business.

Title II is divided into three chapters. Chapter 1 provides for improved management assistance and other business development services for firms eligible to be awarded 8(a) contracts. An important element of this improved assistance is the small business and capital ownership development program. The purpose of this chapter is to provide a legislative design for the business development services of SBA's 8(a) program so as to insure that the emphasis is placed on business development rather than the mere awarding of 8(a) contracts.

Chapter 2 amends section 8(a) to specify that this authority shall be used only for the development of businesses owned by socially and economically disadvantaged persons. Additionally, it recognizes that

small businesses owned by racial and ethnic minorities especially need the assistance that the 8(a) program provides and also implies that many 8(a) program participants probably will come from racial and ethnic minority groups. An eligibility standard of "social and economic" disadvantage is established for 8(a). The purpose of this chapter is to clarify which groups and persons may be eligible to receive assistance under 8(a).

Chapter 3 expands subcontracting opportunities for small businesses and businesses owned by socially and economically disadvantaged persons by requiring formal subcontracting plans, which will become part of all final Federal contracts. The purpose of this chapter is to increase the dollar volume of small business subcontracts on Federal contracts and generally to improve the Federal contracting environment for small businesses.

Summary of the Bill

The committee amendment to H.R. 11318 is divided into two titles.

Title I is divided into two chapters.

Chapter 1 establishes the position of Associate Administrator for Investment, sets the interest rate for section 301(d) small business investment company debentures, establishes the maximum amount of securities that can be purchased or guaranteed by the Small Business Administration, rescinds Administration authority to require differential payment on debentures and preferred securities, and specifies the minimum operating base for new SBIC's.

Chapter 2 amends the definition of surety and clarifies the nature of the SBA guarantee as well as its administration of the surety bond guarantee program.

Title II is divided into three chapters.

Chapter 1 establishes a small business and capital ownership development program and a Presidential advisory committee on business purchases from minority enterprises.

Chapter 2 specifies eligibility requirements for the section 8(a) program.

Chapter 3 provides for the establishment of goals for small business participation in procurement contracts, establishes offices of small business utilization, and requires the negotiation of final subcontracting plans encouraging subcontracting opportunities for small business.

Title I—Amendments to Small Business Investment Act of 1958

Chapter 1

Background

Historically there has been an acute shortage of equity capital and long-term debt for small concerns owned and operated by socially and economically disadvantaged individuals. This problem was addressed in 1972 with enactment of Public Law 92–595. That measure amended section 301 of the Small Business Investment Act of 1958 by providing for a new class of small business investment companies (commonly called section 301(d) SBIC's). These SBIC's are licensed and regulated by SBA to provide debt and equity capital financing to small businesses controlled and operated by socially and economically disadvantaged individuals.

Several incentives were provided in the 1972 amendments to induce the formation of these privately organized and privately capitalized section 301(d) SBIC's. One incentive allowed SBA to purchase subordinated debentures sold by section 301(c) licensees. Section 317 of the Small Business Investment Act of 1958 provided that the debenture interest rate during the first 5 years was to be at a rate 3 percent below the prevailing cost of money to the Federal Government for comparable maturities. SBA, however, promulgated regulations which required the SBIC to repay the interest differential upon making a distribution to stockholders.

At committee hearings on S. 2156, it was found that SBA's policy of recapturing the interest spread has worked to the detriment of the section 301(c) SBIC program. The practical affect of SBA's regulation has been to eliminate what was conceived by Congress to be an interest subsidy.

A similar problem exists with section 301(d) SBIC preferred securities which are purchased by SBA. It was intended at the time of enactment that such securities would pay a cumulative, 3-percent dividend. However, SBA was given discretionary authority to require payment of an amount equal to the then prevailing interest rate on 15-year debentures upon liquidation or redemption of the stock. Section 301(d) SBIC's testified that SBA has told the licensees that in all cases the agency will require the licensee to repay the cost differential. The net effect of this policy is that the SBIC's will have to use after-tax dollars to reimburse SBA, which could mean the SBIC's would have to pay as much as 15 percent for the use of the preferred stock proceeds. Again, this type of result was never intended by the Congress when the preferred stock incentive was incorporated into the Small Business Investment Act of 1958.

Representatives of Section 301(d) SBIC's urged that legitimate subsidies be provided for both the debentures and the preferred securities. They also strongly recommended that section 301(d) SBIC's be permitted to sell SBA an additional tier of preferred securities, provided however, that the combined debenture and preferred leverage ratios not exceed those now permitted by the Small Business Investment Act of 1958.

Spokespersons for both the regular SBIC and section 301(d) SBIC programs also suggested that the statutory responsibilities of the SBA Associate Administrator for Investment be amended to limit the responsibilities of that office only to managing the various SBIC programs. The duties of the Associate Administrator now include responsibility for all of SBA's nondisaster loan programs as well as the agency's venture capital activities.

SBIC industry representatives also recommended that the minimum private capital level for newly formed licensees be increased to $500,000. The present minimum statutory base is $150,000. Experience has shown that licensees coming into the program have great difficulty in remaining viable with less than $500,000 in private capital.

Summary

The Small Business Investment Act of 1958 is amended to provide a subsidy for both the section 301(d) debentures and preferred securi-

ties. Section 303(b) is amended by setting the debenture interest rate at 3 percent per annum for the life of the note. SBA is precluded from ever assessing the section 301(d) licensee for the cost differential, i.e., the point spread between 3 percent and SBA's actual cost of money. In addition, interest paid to date which is in excess of 3 percent is to be applied by SBA to interest due on any outstanding debentures.

Likewise, the dividend formula for section 301(d) SBIC preferred securities is modified by chapter 1. The dividend rate remains at 3 percent per annum and is cumulative. However, upon liquidation or redemption, SBA is only entitled to payment of any unpaid dividends. The amount of preferred securities that can be sold to SBA is also increased. Licensees that came into the section 301(d) program prior to October 13, 1971 (the effective date of the organic legislation) may sell up to two tiers of preferred stock; i.e., up to 200 percent of their private paid-in capital and paid-in surplus. Section 301(d) SBIC's licensed after that date and having less than $500,000 in private capital may sell only up to one tier of preferred stock to SBA. Licensees having a private capital base of $500,000 or more may sell up to two tiers of preferred securities.

The minmum private capital base for newly formed SBIC's is increased to $500,000 effective September 1, 1979. This amendment was adopted to help assure that licensees entering the program for the first time are adequately capitalized to meet any financial contingency in this highly risky business.

The chapter also clarifies the responsibilities of the Associate Administator for Investment by making it clear that the sole responsibility of that office is to manage the SBIC programs. The Associate Administrator is to have no other line responsibilities within the agency.

In amending the statutory provisions governing the section 301(d) program, the committee wishes to reaffirm the legislative history established in 1972 when the section 301(d) organic legislation was enacted. This program was not intended to be made available only to ethnic minority entrepreneurs. The test of whether a small business concern is eligible for section 301(d) financial and management assistance rests on whether the small business concern is controlled by a socially and economically disadvantaged person or persons. SBA, in promulgating and administering regulations for this special SBIC program, is not to discriminate in its policies as to race, color, creed, sex or religious beliefs.

It has come to the attention of the committee that SBA has been critical of some section 301(d) licensees that have provided financing to small business concerns controlled by nonethnic minority people. Such criticism is unwarranted, for race or national origin should not be a factor by itself. The question is whether the small business concern is controlled and operated by an individual or individuals who have been deprived of the opportunity to develop and maintain a competitive position in the economy due to cultural bias, general economic deprivation, or other similarly related circumstances.

The committee expects the agency to review its section 301(d) SBIC policies and the interpretation and enforcement of its section 301(d) SBIC regulations to make certain that they are not in violation of the legislative history of Public Law 92-595.

TITLE I—CHAPTER 2—SURETY BOND AMENDMENTS OF 1978

Background

The surety bond guarantee program was inaugurated in 1971 and since then has enabled small businesses to participate in construction and service contracts in both the public and private sector which otherwise would not have been attainable. As a result of the growth of the surety bond guarantee program, several problems in the relationship between SBA and participating sureties have arisen.

From testimony received in hearings over the past four years the committee has determined the need for legislative clarification of several aspects of the program. There have been over 100 surety companies participating in the program with less than ten of these writing the greatest majority of the bonds. In fact, two of the ten currently write over 70 percent of the bonds. There has been concern voiced by most participating companies about the nature of the guarantee offered by the SBA under the program.

As a result of hearings, the committee prepared this legislation to both clarify the nature of the guarantee and to eliminate certain administrative problems of the program.

SUMMARY

The bill broadens the definition of surety to include agents, underwriters, or any other company or individual that is empowered to act by and on behalf of the surety. Some sureties operate through attorneys in fact or other entities who are empowered to act on behalf of the surety, and each of them relies in turn on independent insurance agents. These agents refer business to the attorney in fact or other entity who can legally act for the surety, and the final decision to issue the bond is made by the latter. Under this definition, the surety will be held responsible for the actions of the attorney in fact or other subsequent entity who is empowered to act on behalf of the surety once the bond is issued. The attorney in fact or entity empowered to act on behalf of the surety is expected to exercise due diligence in relying on the information supplied by the independent agent.

Measures to expedite the handling of the increased volume of bonds being issued under the program have also been included. Where its experience with a particular surety warrants, SBA may enter into a contract with that surety whereby the surety is given blanket coverage for bonds it issues as opposed to having the SBA approve each bond application on a case-by-case basis. The terms of these contracts may vary from surety to surety depending on the SBA's experience with the particular surety.

Under some circumstances it is prudent to expend funds to prevent a principal from breaching the terms of a bond. Under these amendments SBA will be empowered to reimburse a surety for funds expended to prevent a breach when a breach is imminent and it appears to be the reasonable course of action. It is anticipated that payments to prevent an imminent breach would not exceed a certain percentage of the bond amount, for example, 10 to 15 percent. Other conditions which are included in existing law—sections 411(a) (4), (5), and

(6)—have proven unworkable in actual practice and have been deleted by this amendment.

These amendments empower SBA to establish and review regulations for participating sureties. While the market served by the surety bond program is not the "standard" private sector market, these regulations will be aimed at establishing proper guidelines for activity within the confines of the surety bond guarantee program.

In discussions between SBA and participating sureties, the sureties have expressed concern over possible denials of liability by SBA. While there have been very few such denials, there have been a larger number of inquiries that could possibly have led to a denial by SBA. Therefore it was felt necessary to explicitly state the grounds upon which SBA can deny liability. There are two reasons for denial of liability set forth in the legislation: (1) if the surety obtained the guarantee or applied for a reimbursement by fraud or material misrepresentation, or (2) if the total contract amount at the time of execution of the bond or bonds exceeds $1 million.

Another problem involves delays in SBA reimbursing sureties under the guarantee program. Current practice is for SBA to pay claims within 90 days of submission. This can cause cash flow problems for some surety companies when a large number of claims are outstanding. Part of SBA's problem has been an inadequate claims staff. SBA feels that the addition of 10 staff people will relieve this problem. However, if this extra staffing does not adequately relieve the sureties' cash flow problem, these amendments empower SBA to make advance reimbursement payments to sureties. The payment would be based on historical losses incurred by the surety in the SBA surety bond guarantee program. Also, SBA would adjust total payments to the surety upon finalization of the claim.

Title II—Chapter I—Amendments to Section 7(j) of the Small Business Act

BACKGROUND

As a result of the 1967 report of the Commission on Civil Disorders, steps were taken by the Federal Government to increase the level of business ownership by minorities so that they would have a better opportunity to become an integral part of the free enterprise system.

Perhaps the most important Federal program that was designed to develop viable minority small businesses was the 8(a) contracting program of the Small Business Administration.

This program was designed for SBA to contract directly with a Federal procuring agency and then subcontract on a sole source basis to a small business owned by a "socially or economically disadvantaged" person. Since its inception, section 8(a) has been used to direct Federal contracts to socially or economically disadvantaged controlled, firms in the belief that these small businesses would slowly develop their business abilities. With the support of management and technical assistance from SBA's business development specialists, the firm theoretically was to "graduate" into the free enterprise system and compete for regular non-8(a) business.

This has not turned out to be the case, however. According to SBA's own data, since fiscal year 1968, $2.2 billion in contracts has been let through the 8(a) program to 3,726 participating firms. Of those 3,726 firms, only 149 have ever "graduated" from the program. A search by SBA has located only 67 companies of the 149. Of the 67, Dun & Bradstreet had financial information on 41; and of the 41 firms; 5 were bankrupt, 2 were in precarious financial position, and only 33 showed a positive net worth.

These figures standing alone clearly indicate that there are fundamental problems with the present 8(a) program. An internal audit by SBA, along with a review conducted by the General Accounting Office, have substantiated this conclusion. Thorough investigations of the program by Congress have also revealed serious abuses in addition to general program failure.

The committee amendments to section 7(j) of the Small Business Act are intended, therefore, to provide a legislative base for business development under the section 8(a) program, to overcome abuse, and to create a more efficient and productive program.

Hearings before the committee have found that one of the key reasons for the high failure rate is the inadequate level of management and technical assistance supplied by business development specialists and other SBA programs to 8(a) firms.

SBA itself admits that the 8(a) program historically has been focused too heavily on the simple act of getting as many contracts as possible to small socially and economically disadvantaged firms, regardless of their long range potential viability as stable businesses at the end of the contracting or graduation period. SBA realized, to its credit, in 1974 that the volume of contract activity was not a valid measure of the 8(a) programs achievement. The SBA's 8(a) Review Board report to SBA Administrator Weaver in January of 1978 noted:

> The true measure of success, the number of firms assisted by the program to achieve a competitive position in the economy, was recognized, to the extent that it was not occurring.

However, the change in emphasis from simple dollar volume of contracts to business development has, by SBA's own admission, been "more theoretical than real." SBA cites inadequate resources both in the number of personnel and in the program budget as the underlying reasons. For example, although the dollar volume of contracts let through the 8(a) program has grown from $321 million in 1975 to $538 million in 1977, the business development staff has grown by only 3 persons, from 166 to 169.

In this same light, the GAO report, "Ways To Increase the Number, Type, and Timeliness of 8(a) Procurement Contracts," issued in February 1978, notes that in San Francisco, the 8(a) program's business development specialist (BDS) was responsible for a caseload of 72 firms, and in Los Angeles, the business development specialist had a 77-firm caseload. GAO found:

> BDS's do not have the time to contact procuring agencies to obtain 8(a) contracts or to acquaint contracting officers with the capabilities of 8(a) firms enrolled in the program.

> They also did not have time to visit 8(a) firms to assess their capabilities and needs for management assistance or to follow up on recommendations that might have been made by providers of management assistance.

The committee believes that any responsible effort to correct this dismal record must focus on a major upgrading of the business development function of the 8(a) program.

In testimony before the committee, Congressman Parren Mitchell indicated that the 8(a) program needed increased planning and research, including feasibility studies and market research. He also stated that the program needed to do a better job of identifying and developing new business opportunities:

> With the identification and development of new business opportunities, I think the furnishing of business counseling, management training, legal, and other related services are needed. I would even go so far as to suggest that section 7(j) of the Small Business Act should not only be amended to include the 8(a) participants, but that the introductory language should be amended to read: "The Administration shall provide * * *" such services, as opposed to "* * * is authorized to provide."

These amendments add two significant minority business development provisions to section 7(j) of the Small Business Act. These include:

> (1) The creation of an advisory committee, composed of five high-level officers from five U.S. businesses, appointed by the President. The purpose of this Committee will be to help monitor and encourage both the placement of subcontracts by the private sector with minority small businesses, and the incentives and assistance needed by the private sector to help in the training and upgrading of such minority firms. Private sector involvement in the development of minority small business is essential if lasting progress is to be made in this regard, and a Presidentially appointed committee to foster this participation will provide a strong incentive for SBA to implement existing provisions of law in this area. In addition, the GAO will be required to evaluate SBA's performance in this regard, and report to Congress periodically on the success of the program.
>
> (2) The requirement that the GAO, rather than SBA, provide an independent and continuing evaluation of minority business development programs administered by the SBA. This measure is important if we are to help insure that the mistakes of the past 10 years do not continue in this vital area.

The most important change, however, is a new section which would be added to section 7(j), creating a small business and capital ownership development program. This program would provide full service management and technical assistance exclusively to firms eligible to receive contracts through the 8(a) program, and would be the first such effort to be legislatively based and structured. While these are

general management and technical assistant programs presently available for minorities, such as those provided by the Office of Minority Business Enterprise within the Department of Commerce, they are not specifically targeted, nor do they provide the kind of 1-to-1 assistance required in this bill. It is essential to the future success of the 8(a) program that SBA adequately provide its client firms with those development tools necessary to create viable minority enterprises.

The Director of the new program is to be appointed by the President and confirmed by the Senate. This is a necessary requirement in order to elevate the importance of this program as well as provide for the highest possible commitment from the executive branch to minority business development.

Basically, the services to be provided through this new program are general management and technical assistance, including the development of business plans, loan packaging, financial counseling, accounting, bookkeeping assistance, marketing assistance, and assistance in obtaining equity and debt financing. Through the use of existing "call contracting" authority combined with other development assistance tools such as the SCORE and ACE program, the Small Business Institute and the Small Business Development Center program, 8(a) contractors will begin to receive the intensive, professional management, and technical assistance which have been so sorely lacking, and without which the sole-source contracting authority cannot be effective in developing viable small businesses owned by socially and economically disadvantaged persons.

In addition, provisions are made to help insure proper monitoring of the advancement of firms participating in the program. At the present time, SBA is not adequately aware of the businesss condition of 8(a) participants from the time they enter the program or at any time thereafter.

Surety bonding is another major problem in the advancement of minority business development for disadvantaged firms. At some point, 8(a) firms are supposed to exist without 8(a) contracts alone. If they have never received a surety bond or have not had to deal with the requirements for doing so, their chances of being able to obtain such bonding, once outside the program, will be very slim. In a sense, they will be like a prospective borrower with no credit rating developed through a history of business dealings.

Therefore, it is most important that any comprehensive assistance for the development of disadvantaged businesses include a means of helping these firms with the problems of bonding, as well as assistance in procuring bonds from the private sector. Furthermore, the surety bond industry needs to be made more sensitive to the needs of disadvantaged firms so that they will be more willing to deal with them. In an attempt, therefore, to improve the bonding environment for minority firms, this program also provides complete management services, to program participants. They include assistance in the preparation of application forms, assistance designed to meet the specific needs of firms applying for bonds, and assistance in preparation of all forms necessary to receive an SBA surety bond guarantee. This approach will be much more beneficial in the long run to disadvantaged small businesses than would an attempt to create an artificial environment

through bond waivers, an approach which ignores the ultimate demands of the private sector in the bonding area.

Finally, all 8(a) participants must receive the benefits of this new program; no firm will be permitted to receive an 8(a) contract unless such full services are made available. Furthermore, SBA must, in providing 8(a) contracts, satisfy itself that such assistance will promote the competitive viability of the small business participant within a reasonable period of time. Due to the various individual factors involved in the potential for development of any firm, it would not be wise to attempt to legislate a specific time period for "graduation" from the 8(a) program. However, it is most important that this program be used as a development tool, with the understanding that, to be effective in broadening capital ownership, the program must have as its ultimate goal the survival and growth of small businesses within the competitive free enterprise system. If a firm can never succeed on its own without 8(a) contracts, it not only would be a cruel hoax on the firm itself, but it would also be a waste of valuable resources which could be applied to other businesses, which eventually could be successful.

In this regard, the committee would note that the 8(a) program has been found to have an overabundance of nonprofessional service contracts, with the result that there is a disproportionate number of nonprofessional service firms participating in the program. The GAO has specifically singled out the janitorial service area as one where SBA has had more firms in the 8(a) program than could ever hope to survive in the private sector.

The committee is most concerned with this situation's effects on the 8(a) program's ability to use Federal contracts as a means for the development of minority businesses in the more sophisticated kinds of industries such as manufacturing, construction, and professional services.

The committee therefore wishes to stress that the SBA, in accepting contracts for the 8(a) program, should give strong focus to the expansion of the diversity of 8(a) contracts and 8(a) contractors. In so doing, the SBA should also give careful consideration to the potential impact on other small businesses when it accepts contracts for the 8(a) program.

Without such a change in approach, the committee would be indicating a willingness to continue to measure the success of the 8(a) program and business development in general, not by how many viable businesses are developed, but simply by how many contracts are let. Based on the 8(a) program's past record, this would be irresponsible both to the taxpayer and to the disadvantaged firms.

SUMMARY

Section 7(j) presently provides 1-on-1 management and technical assistance to individuals or enterprises eligible to receive loans pursuant to section 7(i) of the Small Business Act. Section 7(i) is SBA's economic opportunity loan program. Existing law also singles out small businesses located in areas of high concentration of unemployed or low-income individuals and small businesses owned by low-income

individuals for special attention in providing assistance under section 7(j).

These amendments open the 7(j) program to firms eligible to receive contracts pursuant to section 8(a) of the Small Business Act. In this way, 8(a) small businesses will receive business development services through the 7(j) management assistance programs as opposed to the present system of receiving business development help through SBA's procurement division.

Also, section 7(j) offers the kind of management assistance authority that is badly needed by 8(a) firms. Under these amendments, 8(a) firms will be able to receive 1-on-1 management help. For example, a manufacturing firm that needs special engineering consulting to perform on an 8(a) contract would be eligible for such help through section 7(j) call-contracting.

The key factor is that these management, technical, financial, and other services will be tailored to the specific needs of the 8(a) participant. Only this kind of special help will allow SBA to properly manage the 8(a) program to develop viable private sector firms, and not simply deliver sole source Federal contracts to a target group.

Specifically, these amendments create a small business and capital ownership development program in which all 8(a) firms must participate. This program provides a structure for the business development services that will be made available as a required element for receiving contracts under the 8(a) authority.

Under this program, comprehensive business plans will be prepared for the 8(a) firm. The program will also establish regular performance monitoring and reporting systems for 8(a) businesses. This responsibility is absolutely essential if the progress of 8(a) firms is to be tracked properly and if sound decisions on program graduation are to be made. Moreover, the causes of success or failure of 8(a) small businesses will be analyzed by this program.

The program will also provide necessary nonfinancial services such as loan packaging, financial counseling, accounting and bookkeeping assistance, and marketing and management assistance. The program will assist 8(a) firms in obtaining debt and equity financing.

An important part of the program is the special surety bond management assistance program. Section 8(a) firms will receive whatever assistance is needed to procure a surety bond. Assistance will include, but not be limited to, preparation of application forms to receive a bond from a private sector surety company, preparation of all forms necessary to receive a bond through SBA's surety bond guarantee program, and delivery of special management and technical assistance designed to meet the specific needs of 8(a) firms which have received or are applying to receive a surety bond.

The committee believes that the availability of this kind of help is absolutely essential for improving the bonding environment for 8(a) firms. And the committee expects that the availability of these special support services will lead to greater participation of major surety bond companies in SBA's surety bond guarantee program. Up to now, their participation has been very limited.

A Presidentially appointed Director for Small Business and Capital Ownership Development will be in charge of the small business and

capital ownerhip development program as well as all other programs authorized under section 7(j) of the Small Business Act. The Director will also be responsible for coordinating and formulating policies relating to Federal assistance to 7(i) and 8(a) eligible firms. This new position will replace the Associate Administrator for Minority Small Business position in SBA.

Changes have also been made to increase private-sector contracting opportunities for disadvantaged small businesses. Presently, SBA is empowered to encourage business to buy from minority enterprises. It is further empowered to provide incentives or assistance to businesses so that they will buy more from disadvantaged firms. SBA has generally ignored this authority.

The committee believes that this authority is potentially among the most important in the Small Business Act for developing strong disadvantaged firms. To insure that SBA utilize its authority, the bill creates a 10-member advisory committee to advise SBA on how to foster more private sector purchases from disadvantaged small businesses. The members, five from U.S. business and five from minority enterprises, will be appointed by the President, and the committee chairman will be designated by the President.

In addition to the advisory committee's activities to promote action under this paragraph, the General Accounting Office is directed to report regularly to Congress on SBA activities under this paragraph. The committee believes that the advisory committee combined with GAO reviews and strong congressional oversight will lead to substantially increased utilization of this authority by SBA.

Also, to insure proper oversight of all programs authorized under section 7(j), the General Accounting Office is directed to provide an independent and continuing evaluation of the 7(j) programs. Presently, SBA audits its own activities under this subsection. Because of the vital importance of the 7(j) programs to the policy goal of disadvantaged enterprise development, it is essential that they operate as effectively as possible. An independent audit, such as GAO would provide under this bill, is absolutely essential for pinpointing problem areas before they become chronic and debilitating to program effectiveness.

Title II—Chapter 2—Amendments to Section 8(a)

BACKGROUND

At present, section 8(a) of the Small Business Act authorizes the SBA to enter into contracts with Federal procuring agencies or departments for the purchase of articles, equipment, supplies or materials. SBA is empowered to let subcontracts to business concerns to perform such contracts.

The 8(a) authority has been used since 1968, by administrative regulation, to channel Federal purchase requirements to "socially or economically disadvantaged" persons. Congress has never extended legislative control over the 8(a) program, other than indirectly through appropriations.

Through this program, a total of 3,726 firms were awarded $2.2 billion in contracts between fiscal year 1968 and fiscal year 1977. Ap-

proximately 1,500 businesses are presently participating in the program. In fiscal year 1977 these firms received $53 million in contracts. A profile of participating firms, by ethnicity and sex, as of December 31, 1977 follows:

OWNERSHIP BY RACE/ETHNIC ORIGIN

Racial category	Number of concerns	Percent by racial category
Black	974	65.7
Puerto Rican	24	1.6
American Indian	82	5.5
Spanish American	256	17.3
Asian	91	6.1
Eskimo and Aleut	3	.2
Undetermined	2	.2
Other (including white)	50	3.4
Total	1,482	100.0

OWNERSHIP BY SEX [1]

Sex	Number of concerns	Percent by sex
Male	1,422	96.0
Female	60	4.0

[1] These figures represent information available based upon a manual review of the portfolio performed Dec. 31, 1977, by SBA.

Reports prepared by the General Accounting Office and investigations conducted by both the executive and legislative branches have disclosed that the 8(a) program has fallen far short of its goal to develop strong and growing disadvantaged small businesses. Only 33 of the more than 3700 firms which have participated in the program have both completed the 8(a) program and are known to have a positive net worth.

One of the underlying reasons for the failure of this effort is that the program has no legislative basis. The 8(a) program simply evolved as a result of Executive orders issued by Presidents Johnson and Nixon in response to the 1967 Report of the Commission on Civil Disorders, commonly called the Kerner Commission. The finding that triggered the 8(a) effort was that disadvantaged individuals did not play an integral role in America's free enterprise system, in that they enjoyed no appreciable ownership of small businesses and did not share in the community redevelopment process. The report, therefore, recommended that steps be taken to increase the level of business ownership by minorities so that they would have a better opportunity to materially share in the competitive free enterprise.

This chapter gives a statutory basis to the 8(a) program. It establishes the policy goal of developing businesses owned by socially and economically disadvantaged persons. It also recognizes the pattern of social and economic discrimination that continues to deprive racial and ethnic minorities, and others, of the opportunity to participate fully in the free enterprise system. The bill is designed to foster business ownership by socially and economically disadvantaged persons and to promote the viability of businesses run by such persons by providing contract, financial, technical and management assistance.

Pursuant to this legislation, the 8(a) program is statutorily defined to be one for small businesses which are at least 51 percent owned and operated by socially and economically disadvantaged persons. Although it is expected that, as under the present 8(a) program, the majority of qualifying firms will be those owned and operated by racial and ethnic minorities, the program will be open to any business owned by persons who meet the socially and economically disadvantaged test.

Because the 8(a) program, as presently implemented, has resulted in inequitable determinations of eligibility, the committee provides objective criteria for SBA to use in considering whether an applicant meets the requirements for program eligibility. In determining whether an applicant, who is starting a small business, meets the "economic disadvantage" criterion, the SBA should consider, among other things, the liquid net assets owned by the applicant as compared to the capital generally required to start a business in the industry in question. For existing small business concerns, the SBA should consider, among other things, the position of the business relative to other businesses in the same industry and the liquid net assets owned by the individual based on the capital generally required to maintain and expand the small business in the industry. In its determination of "social disadvantage", the SBA is directed to take into account the question of whether the owner or owners of the applicant firm have been deprived of the opportunity to develop and maintain a competitive position in the economy due to cultural bias, general economic deprivation, or other similar causes.

The SBA in determining eligibility for participation in the 8(a) program should be guided by the social and economic context of today's business climate.

Applications for certification in the 8(a) business development program must be evaluated in terms of probability of success in the particular industry in which the applicant desires certification. Guidelines, goals, and other criteria must be developed by the SBA along major industry lines and must be consistent with the existing SBA industry size standards.

In addition, particularly as it relates to the economic status of the applicant, the SBA shall develop standards, along major industry lines, which recognize the historic past discrimination of minorities as a group in their efforts to participate in the free enterprise system. The standards must not deny admission to the 8(a) program to minority applicants merely because they have managed to accumulate savings, acquire a quality education, or have accumulated other assets (such as homes, cars, etc.), which they may or may not be able to utilize as collateral to launch or sustain a business operation. Indeed, such assets may be a prerequisite for the development of a viable business. Nor shall past or present employment be used as criteria for denial of a minority applicant's admission to the program. Minority applicants who have managed in this manner to prepare themselves to successfully participate in the free enterprise system should not be denied admission to the 8(a) program for business development for having done so. However, the mere fact that the applicant is a member of a racial or ethnic minority will not, by itself, satisfy the eligibility requirement of economic disadvantage.

Investigations show that the SBA has allowed nondisadvantaged persons (sponsors) to provide management assistance to 8(a) companies for a fee. Lack of proper administration and congressional direction have fostered program abuses where nondisadvantaged persons use minority persons as "fronts" in order to vie for negotiated 8(a) contracts. This problem is addressed by providing a statutory restriction that the disadvantaged person must also be able to operate at least 51 percent of the business. The company must also be able to show that it is able to perform on possible contract awards and has reasonable prospects for success in competing in the private sector.

The legislation also provides that 8(a) companies, when practicable, are to participate in the negotiations of the terms and conditions of 8(a) contracts.

SUMMARY

Section 211 contains congressional findings and purposes. The findings state that the development of small business ownership among socially and economically disadvantaged persons has been a very slow process and that it is in the national interest to expeditiously improve this condition. The fact that minority small businesses have had an especially difficult time in fully participating in the economic system is also recognized. It finds, therefore, that the procurement authority under section 8(a) of the Small Business Act should be used only for developing minority and other socially and economically disadvantaged businesses. The purpose of the 8(a) program is to foster the development of socially and economically disadvantaged businesses and to promote the competitive viability of these businesses by providing necessary contract, financial, technical and management assistance.

Section 212 defines the 8(a) eligibility requirements. A small business must be at least 51 percent owned and operated by a socially and economically disadvantaged person and must be able to perform on possible contract awards and have reasonable prospects for success in competing in the private sector.

SBA is directed in determining economic disadvantage to consider, among other things, the liquid net assets of an applicant who is starting a small business and to compare these assets to the capital generally required to start a business in the industry in which the business will operate. In the case of an existing small business, SBA is directed to consider the position of the business relative to other businesses in the same industry and the liquid net assets owned by the applicant based on the capital generally required to maintain and expand the small business concern in the industrial area in which the business operates. SBA, in determining social disadvantage, is to consider whether the applicant has been deprived of a competitive position in the economy due to cultural bias, general economic deprivation, or other similar causes.

In addition, 8(a) companies are to participate, when practicable, in the negotiations of 8(a) contracts.

Ninety days after the bill is enacted, SBA must publish regulations specifying when an eligible 8(a) company may be denied any assistance under this subsection. However, before SBA can terminate, graduate, or fail to "recertify" a company previously found eligible, it must afford it a hearing on the record in accordance with the Administrative Procedure Act.

TITLE II—CHAPTER 3

BACKGROUND

The committee believes that the growth of the small business share of Federal procurement has been too slow. In 1967, small firms received 20.3 percent of the dollars spent by the Federal Government for goods and services. That percentage dropped to 17.2 percent in 1969 and has only recently (in 1977) risen to 22.5 percent.

During the last decade there has been only a 1-percent average annual growth in the percentage of total Federal contract dollars awarded to small business. These amendments are designed to improve this performance.

Annual goals have been used to set targets for small business participation in Federal contracts. Federal departments and agencies set their own goals without appreciable input from SBA. SBA may disagree with goals set by Federal buying activities, but there is no method beyond persuasion that SBA can utilize to influence the size of small business procurement goals.

Measures to improve SBA's role in helping to set these goals are needed. The committee believes that a more active role for SBA in the goal setting process will result in more ambitious goals and a larger Federal contracting share for small business.

A critical problem area involves the small share—only 5 percent—of the Federal contract dollar that small research and development companies annually capture. In light of the widely acknowledged innovative abilities of these small research firms, the committee believes that it is essential that Federal agencies award more contracts to them. The Federal Government badly needs the kind of creative flexibility that small firms are able to offer.

The committee also reviewed procurement practices for Federal contracts under $10,000 in value. Presently, these smaller purchases are made under simplified purchasing procedures, and are often used to buy off-the-shelf commercial items. Small businesses are especially suited to supply many of these items to the Federal Government. The committee believes that focusing on increasing small business procurement opportunities for small contracts will be beneficial to both the Federal Government and the small business sector. The small business sector will be able to avail itself of a larger share of Federal business, which will not involve the paperwork and regulatory burdens of normal Federal procurement; and the Federal Government will enjoy the benefits that result from increased competition for its purchases.

These amendments require that contracts of less than $10,000 be reserved exclusively for small business unless the contracting officer cannot obtain offers from two or more small businesses that are competitive in terms of price, quality, and delivery of the goods or services being purchased.

The committee does not intend that the screening of these small purchases for small business set asides be elaborate or time consuming. A simple check by telephone, for example, to determine whether two or more responsible small business bidders can be found for a particular small purchase would be sufficient. Even though lengthy justifications for not purchasing from a small firm are not necessary, the com-

mittee does expect all Federal buying activities to diligently implement this set-aside process and more actively seek out potential small business suppliers.

Moreover, the committee has authorized $2,500,000 for SBA to develop an automated procurement source data base. As this computer system is developed, Federal buying activities will have a readily available source list of small business suppliers, which can be used for screening small purchases for small business set-asides.

Of the 18 civilian executive agencies that have annual purchases of more than $100 million, only 7 have full-time employees whose principal job is the promotion of procurement opportunities for small business. Four military agencies—the Departments of the Army, Navy, and Air Force, and the Defense Logistics Agency—also have full-time small business officials. However, many are located in the lower echelons of the bureaucracy and, therefore, are unable to advocate or effectively assist in the procurement of contracts for small business. The committee believes that the small business procurement officers must have direct access to top level agency policymakers to improve their effectiveness as small business advocates. These amendments thus establish the position of "Director of Small Business Utilization" in all Federal procuring agencies. These directors would report directly to the agency head or an official not less than one level of responsibility lower than the agency head.

Creation of these offices is central to the goal of the Small Business Act which directs that small business receive a fair portion of Federal procurement through vigorous action on the part of Federal departments and agencies.

Additionally, the amendments require every procuring agency to assign a technical adviser to each SBA procurement center representative (PCR). Such technical support is needed, because SBA's 37 PCR's, whose job it is to screen procurements for small business bidding, must review almost 160,000 procurements a year, many of which are highly technical in nature.

Section 8(d)(1) of the Small Business Act directs the Secretary of Defense and the Administrators of the General Services and Small Business Administrations to develop a subcontracting program to enable small businesses to be considered more equitably as subcontractors under Federal contracts.

The small business subcontracting program has not changed substantively since 1961. Its success presently depends solely upon the voluntary "good effort" of Federal prime contractors.

Although many large prime contractors have taken the existing policy seriously, the committee believes more aggressive action is needed to increase the small business subcontracting share of Federal prime contracts.

Therefore, these amendments require, for example, that a low offeror on a negotiated Federal contract submit a plan stating how much subcontracting will go to small businesses and small businesses owned and operated by socially and economically disadvantaged persons. It also authorizes SBA to review the plan and to determine ways to increase the small business subcontracting share of Federal prime contracts. While the contracting agency would give the final approval for

the plan, SBA could influence subcontracting decisions on negotiated procurements through the review process. Most importantly, by assessing the potential for subcontracting, SBA will be creating a much needed set of data within which standards and goals can be set in the future so as to better judge whether or not small businesses are receiving a fair proportion of subcontracts or Federal prime contracts.

Many small businesses now are not able to sell to the Federal Government because procurement procedures are complicated and burdensome. These amendments, therefore, include two measures intended to help simplify the Federal procurement process for smaller firms.

In promulgating a single, simplified, and uniform procurement regulation, the Office of Federal Procurement Policy is directed to analyze the impact of such regulations on small businesses and to simplify procurement procedures.

Since most small businesses cannot assign employees to track contracts offered by the various Federal purchasing offices, as most of the large contractors now do, it is important that they have access to timely, concise, and detailed information on proposed Federal purchases. This information should include what is to be purchased, how it is to be purchased, and what the contractual obligations are.

SUMMARY

Section 221 amends section 15 of the Small Business Act to require Federal departments and agencies to cooperate with the Small Business Administration in establishing goals for small business participation in Federal procurement. This section asserts that these goals shall "realistically reflect the potential" of small businesses to perform Federal contracts and subcontracts. Whenever SBA and a department or agency cannot agree on a goal, the disagreement is submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

At the end of each fiscal year the head of each Federal agency will report to the Small Business Administration on the small business share of contracting by the agency in question, and the degree to which the goals established for small business participation have been met. In turn, the SBA will submit to the Small Business Committees of both houses of Congress an analysis of the information obtained from these reports.

Section 221 authorizes Federal agencies to use set-asides as a tool to increase the small business share of research and development contracts. Under set-aside procedures, the purchasing agency will seek competitive bids from two or more small businesses for award of a contract. If such competition is possible, the procurement is to be reserved exclusively for small business bids.

Section 221 requires that each Federal contract with an anticipated value of less than $10,000 and which is subject to small purchase procedures be reserved exclusively for small businesses unless the contracting officer is unable to obtain offers from two or more small businesses that are competitive in terms of price, quality, and efficient delivery of the goods or services.

Section 221 establishes an "Office of Small Business Utilization" in each Federal agency.

An employee appointed by the agency head, who will be known as the "Director of Small Business Utilization," will manage the office. The Director will report to the agency head or an individual, such as an Under Secretary, in a position of comparable authority. The Director will cooperate with SBA in the implementation and execution of functions and duties authorized under sections 8 and 15 of the Small Business Act.

Additionally, the Director of Small Business Utilization will assign a small business technical adviser to each office which has an SBA procurement center representative. The technical adviser shall be a full-time employee of the procuring activity and is to be well-qualified, technically trained, and thoroughly familiar with the equipment, supplies or services purchased by the activity. The principal duty of the small business technical adviser will be to assist the SBA's procurement center representative in the duties and functions authorized under sections 8 and 15 of the Small Business Act.

Section 222 makes it mandatory that small businesses and small businesses owned and operated by socially and economically disadvantaged persons have the maximum practicable opportunity to participate in the performance of contracts let by the Federal Government.

This policy statement applies to all Federal contracts having a value exceeding $10,000 and which will be performed within the United States and are not for personal services. This policy is to be implemented to the fullest extent possible consistent with the efficient performance of the contract. The contractor must also agree to furnish any information to the Small Business Administration and the awarding agency which is necessary to determine the extent of compliance by the contractor.

For purposes of subcontracting, a small business is defined pursuant to section 3 of the Small Business Act and to relevant SBA regulations. A small business owned and operated by a socially and economically disadvantaged person is defined under section 8(a) of the Small Business Act as amended by section 212 of this legislation.

While the committee recognizes the difficulty that prime contractors might have in determining whether a firm is owned and operated by a socially and economically disadvantaged person, section 222(d)(3)(D) permits contractors to rely on written representations by their small business contractors that they are either a small business or a small business owned and operated by a socially and economically disadvantaged person. The committee recommends that for purposes of effective implementation of this program, the Small Business Administration should develop a procedure by which it can receive challenges to these written representations and review the eligibility of small subcontractors.

A similar procedure is currently in effect for small businesses bidding on prime contracts set aside exclusively for small business. Another bidder or offeror may challenge the self-certification of a low-bidding small business. The matter is referred to SBA, which then determines whether the firm in question meets the pertinent size standard and is considered eligible for the contract award. Because these amendments specifically emphasize the need for subcontracting to

small businesses owned and operated by socially and economically disadvantagd persons, a method for resolving questions concerning the self-certification of firms is crucial to fulfilling the intent of these amendments.

On negotiated prime contracts above $500,000 and on formally advertised contracts above $1 million, the low offeror or bidder shall submit to the procuring agency a subcontracting plan that details—

(i) percentage goals for the utilization of small businesses and small businesses owned and operated by socially and economically disadvantaged persons as subcontractors;

(ii) the name of an individual within the offering or bidding business who will administer the subcontracting program and a description of such individual's duties; and

(iii) a description of how small businesses and small businesses owned and operated by socially and economically disadvantaged persons will be utilized as subcontractors of the offering or bidding firm.

In all cases, subcontracting plans shall reflect the "best efforts" of the prime contractor. For formally advertised contracts, the low bidder shall never be deprived of a contract solely because the subcontracting plan is not as ambitious as a contracting officer might expect. In such a case, the contracting officer shall attempt to achieve improvements in the plan.

These amendments also authorize SBA to review final subcontracting plans and make appropriate recommendations to contracting agencies. In this review, SBA shall evaluate whether plans reflect the maximum potential of small business to serve as subcontractors and to recommend improvements to the contracting agency before the contract is awarded.

While SBA does not have final authority to approve these plans or the authority to delay contract approval if it disputes the plan accepted by the contracting agency, these amendments do create a specific role for SBA in the subcontracting process. At the conclusion of each fiscal year, SBA is to submit to the Small Business Committees of both houses of Congress a report on subcontracting plans.

SBA is also authorized to evaluate compliance of prime contractors with subcontracting plans. Federal agencies are authorized to provide incentives to prime contractors to encourage them to subcontract with small businesses and small businesses owned and operated by socially and economically disadvantaged persons.

Sections 223 and 224 require that the Office of Federal Procurement Policy to promulgate a single, simplified, uniform procurement regulation and to consult with the Small Business Administration in analyzing the impact of revised procurement regulations on small businesses. It shall incorporate into the revised regulations simplified bidding, contracting performance, and contract administration procedures for small business. Section 225 instructs Federal contracting departments and agencies to provide to any small business copies of bid sets and specifications, the name and telephone number of a person within the agency who will provide further information to bidders, and adequate citations to the major laws and rules with which contractors must comply in performing a Federal contract.

SECTION-BY-SECTION ANALYSIS

TITLE I—AMENDMENTS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958

Chapter 1

Section 101

This section amends section 201 of the Small Business Investment Act of 1958, by making the Associate Administrator for Investment responsible to the Administrator solely for small business investment company programs, as outlined in title III of the act.

Section 102

This section amends section 303(b) of the Small Business Investment Act of 1958 to set the interest rate at 3 percent per annum for debentures purchased or guaranteed by the Administration from section 301(d) SBIC's.

Section 103

This section amends section 303(b) of the Small Business Investment Act of 1958, to provide that the 3 percent per annum interest rate stated in section 101 be applied retroactively to any outstanding debenture previously purchased by the Administration from a section 301(d) SBIC, and that any interest already paid in excess of this amount be applied to the interest payable after the effective date of legislation, without interest on such interest.

Section 104

This section amends section 303(c) of the Small Business Investment Act of 1958 to provide the Administration with authority to purchase from section 301(d) SBIC's securities which have characteristics similar to preferred securities.

It also rescinds Administration authority to require, upon liquidation or redemption of preferred securities, a differential payment of interest on dividends.

The maximum amount of such securities purchased or guaranteed by the Administration is increased to:

(A) 200 percent of capital and surplus, from a company licensed on or before October 13, 1971;

(B) 200 percent of capital and surplus, from a company having combined private paid-in capital and paid-in surplus of $500,000 or more;

(C) 100 percent of capital and surplus, from a company licensed after October 13, 1971, and having a combined paid-in surplus of less than $500,000.

Section 105

This section rescinds Administration authority to require differential payment on dividends or debentures.

Section 106

This section amends section 302(a) of the Small Business Investment Act of 1958 by:

(a) making the minimum private capital base for new SBIC's $500,000 in paid-in capital and paid-in surplus; and

(b) raising the amount of shares of SBIC stock purchasable by banks to a level not to exceed 10 percent of the bank's capital and surplus.

Chapter 2

Section 111

Section 410 of the Small Business Investment Act of 1958 is amended to include in the definition of surety, an agent, underwriter, or any other company or individual empowered to act on behalf of such person.

Section 112

This section amends section 411 of the Small Business Investment Act of 1958:

(a) to allow SBA eo enter into guarantee agreements with surety bond companies on either a case by case basis or on a broader multiple bond basis. It also allows SBA to reimburse a surety when the surety has incurred expenses to prevent an imminent breach;

(b) to authorize the SBA to pay up to 90 percent of a loss incurred and paid by a surety as a result of a breach or to prevent an imminent breach of one of the bonds guaranteed by SBA;

(c) to enable SBA to establish regulations governing the sureties who participate in its program;

(d) to set forth the circumstances under which SBA can refuse to honor its guaranteee; that is, fraud, material misrepresentation and excessive coverage;

(e) to enable SBA to make advance payments against a surety's losses;

(f) to enable SBA to audit a participating surety; and

(g) to set forth the right of SBA to establish fees to be paid it by the bond applicants and premiums to be paid it by the sureties.

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT

Chapter 1

Section 201

In section 201(a) Congress finds that there is a concentration in ownership and control of productive capital in the U.S. economy, and that certain groups, therefore, have limited opportunities for small business ownership and own and control little productive capital.

It is in the best interest of the Nation that ownership be broadened to include these groups. This goal would be facilitated by the creation of a program for small business ownership development, which would include among its functions financial, management, and technical assistance.

Procurement authority under section 8(a) of the Small Business Act is specifically designed to assist groups that own and control little productive capital, and can, therefore, be an effective aid for developing business ownership among these groups.

In section 201(b) it is stated that the purpose of these amendments is to amend section 7(j) of the Small Business Act so as to foster busi-

ness ownership by individuals who are members of groups who own and control little productive capital, and to create a small business and capital ownership development program to promote the competitive viability of these firms.

Section 202

This section amends section 7(j) of the Small Business Act to extend the financial, management, technical and other services outlined in that section to those individuals and enterprises eligible to receive contracts under section 8(a) of the act.

Section 7(j)(3)(A) creates an advisory committee comprised of five representatives of U.S. businesses and five representatives of minority small business. It is the purpose of the advisory committee to facilitate and further encourage the placement of subcontracts with eligible businesses, and to foster the development and training of these firms. Eligible business concerns include those located in areas of high concentration of unemployed or low-income individuals, and with those businesses eligible for assistance under section 8(a) of the act. Members of the advisory committee are appointed by the President, and the chairman shall submit an annual report of the advisory committee activities to both the President and Congress.

In section 7(j)(3)(B), the General Accounting Office is directed to evaluate Administration activities and the success of these activities in encouraging the placement of subcontracts with these businesses. A report of findings is to be submitted to the Congress no later than January 1, 1980, with additional evaluation submitted at the discretion of the Comptroller General.

Section 7(j)(8) directs the General Accounting Office to provide a continuing evaluation of all programs outlined under section 7(i), 7(j), and 8(a). These studies are to include consideration of the quality of management assistance and the utilization of private resources in these programs. An evaluation with recommendations shall be submitted to the Congress not later than January 1, 1980, with additional evaluations to be submitted at the discretion of the Comptroller General.

Section 7(j)(10) establishes the small business and capital ownership development program. The program is to provide assistance exclusively to section 8(a) business concerns. A Director of Small Business and Capital Ownership Development, appointed by the President with the advice and consent of the Senate, shall manage the program, as well as all other services authorized in section 7(j). The Director shall be an executive level IV position.

The program shall assist 8(a) businesses in developing comprehensive business plans; provide such nonfinancial services as deemed necessary, including loan packaging, financial counseling, accounting and bookkeeping assistance; assist such businesses in obtaining equity and debt financing; establish performance monitoring and reporting systems to assure that participants comply with their business plans; analyze the cause of the success or failure of participating businesses; and provide all necessary assistance in the procurement of surety bonds.

No small business shall receive an 8(a) contract unless the program is able to provide those services necessary to promote the competitive viability of that concern, within a reasonable amount of time.

Section 7(j)(11) makes the Director responsible for the coordination and formulation of policies relating to Federal assistance to small business concerns eligible for such assistance under either section 7(i) or 8(a).

Section 203

This section amends section 7(k) of the Small Business Act by extending Administration authority: to utilize the services and facilities of Federal agencies without reimbursement; accept gifts and voluntary services; and to employ experts and consultants to include section 8(a).

Section 204

This section amends section 4(b) of the Small Business Act by eliminating the position of Associate Administrator for Minority Small Business.

Chapter 2

Section 211

In section 211(a) Congress finds that small businesses owned by socially and economically disadvantaged persons have developed slowly and that among such businesses are minority small businesses, which through lack of comprehensive assistance, have been unable to overcome negative conditions impacting upon them.

It is in the national interest to expeditiously ameliorate these negative conditions faced by many minority and other socially and economically disadvantaged businesses. The procurement authority under section 8(a) of the Small Business Act will be used only as a tool for helping to develop these businesses.

In section 211(b) it is stated that the purpose of these amendments is to amend section 8(a) of the Small Business Act to foster business ownership by, and promote competitive viabiltiy of, firms owned by socially and economically disadvantaged individuals.

Section 212

This section amends section 8(a) of the Small Business Act to define concerns eligible for contracts as those which are at least 51 percent owned and operated by a socially and economically disadvantaged person or persons, and having a reasonable prospect of success in competing in the private sector. Economic disadvantage for a new business concern shall be determined by consideration of liquid nets assets owned by the individual. Economic disadvantage for an existing concern shall be determined by consideration of the position of the business relative to other businesses in the same industry, and by the liquid net assets owned by the individual. Social disadvantage shall be determined by consideration whether the individual has been deprived of the opportunity to develop and maintain a competitive position in the economy due to cultural bias, general economic deprivation, or other similar causes.

This section also states that small business concerns selected to perform a contract pursuant to section 8(a) shall participate in contract negotiations whenever practicable.

In 90 days from the effective date of this legislation, SBA is required to issue rules and regulations specifying when an eligible firm

may be denied assistance under the new subsection 8(a). Prior to denying any assistance, however, SBA must afford the firm a hearing on the record in accordance with chapter 5 of title 5, United States Code.

Chapter 3

Section 221

This section amends section 15 of the Small Business Act to provide for the establishment of goals for small business participation in Federal procurement contracts. Federal agency and department heads shall annually report to the Small Business Administration on the extent of participation of small businesses in procurement contracts, in reference to these goals.

Offices of Small Business Utilization are established in each agency and department of the Federal Government, under the management of a Director of Small Business Utilization. The Director shall, among other duties, be responsible for assigning a small business technical advisor to each office which currently has assigned a procurement center representative.

Section 222

This section amends section 8(d) of the Small Business Act, stating that it is the policy of the Federal Government to afford the maximum practicable opportunity for participation in the performance of Federal contracts to small business. This policy shall be stated as a clause in all Federal contracts specified in this section. For specified Federal contracts let pursuant to the negotiated method of procurement, or by formal advertising, a final subcontracting plan must be negotiated between the offering business concern and the procuring department or agency. The approved subcontracting plan shall be included in and made a material part of the contract. The Small Business Administration is authorized to review subcontracting plans, evaluate compliance with these plans, and submit an annual report to the House and Senate Small Business Committees on those plans failing to comply with stated Federal policy.

Section 223

This section directs the Administrator of the Office of Federal Procurement Policy to promulgate a single, simplified, uniform procurement Federal regulation and to establish procedures to insure compliance with such provisions.

Section 224

This section authorizes the Administrator of the Office of Federal Procurement Policy to analyze the impact of revised procurement regulations on small business concerns, and to include in revised regulations simplified bidding, contract performance, and contract administration procedures.

Section 225

This section specifies contract information to be provided to a small business concern upon request, for specified contracts.

Section 226

This section defines "Administrator", "Federal agency", and "Government procurement contract" for the purposes of this act.

ESTIMATE OF COSTS

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 27, 1978.

Hon. GAYLORD NELSON,
Chairman, Select Committee on Small Business,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 11318, a bill to amend the Small Business Act and the Small Business Investment Act of 1958.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JULY 27, 1978.

1. Bill No.: H.R. 11318.

2. Bill title: "A bill To Amend the Small Business Act and the Small Business Investment Act of 1958."

3. Bill status: As ordered reported by the Senate Select Committee on Small Business, July 18, 1978.

4. Bill purpose:

Title I

Chapter 1 lowers the interest rate on minority enterprise small business investment company (Mesbic) debentures from the cost of money to the Small Business Administration (SBA), with a 5-year interest deferral, to 3 percent for the life of the debenture (up to 15 years). In addition, SBA would be allowed to purchase additional shares of preferred Mesbic stock based on the criteria specified in section 104.

Chapter 2 clarifies the guarantee offered to surety companies by SBA through its surety bond guarantee program. A guarantee can be revoked only if a surety company obtained it through fraud or material misrepresentation or if the amount of the contract exceeds $1 million. In addition, SBA may establish regulations that set general performance standards for participating surety companies.

Title II

Chapter 1 provides a new structure for the SBA 8(a) minority business development program. This bill establishes within SBA a Small Business and capital ownership program, which will be responsible for providing all management and technical assistance to all 8(a) firms. A firm will not be able to receive 8(a) assistance without participation in this program. In addition, 8(a) contractors would be eligible for SBA 7(j) programs, which provide management assistance for the SBA 7(i) loan program, economic opportunity loans.

Chapter 2 clarifies eligibility for the 8(a) program, limiting participation to business concerns at least 51 percent owned and operated by a socially and economically disadvantaged person, and would encourage potential 8(a) contractors to participate in procurement negotiations for which they are eligible.

Chapter 3 would require Federal agencies to consult with SBA in establishing goals for small business participation in Federal contracts. Agencies would be required to report to SBA on the amount of contracts awarded to small businesses; SBA would then analyze these data and report the results to Congress. Small business set-asides would be required for all contracts under $10,000, and specific set-asides would be authorized for research and development. A position of Director of Small Business Utilization would be established within each Federal agency. This individual would have responsibility for managing all small business procurements and for supervising another new position, that of the small business technical adviser, who would assist the SBA procurement center representative. In addition, small business subcontracting plans for Federal contracts would be required to a greater extent than they are currently. SBA would be allowed to review the final subcontracting plan, make recommendations, and evaluate compliance.

Finally, the Office of Federal Procurement Policy (OFPP) is directed to analyze small business impact and simplify procurement procedures for small business. All Federal agencies would be required to provide adequate bidding information and the applicable citations to Federal law relating to the procurement for all interested small businesses.

5. Cost estimate.

[In millions of dollars]

Estimated cost:	
Fiscal year:	
1979	5.8
1980	9.4
1981	11.1
1982	12.4
1983	13.6

The costs of this bill fall primarily in budget subfunction 376.

6. Basis of estimate: For the purposes of this estimate, it is assumed that this bill is enacted on or about October 1, 1978.

Title I

Chapter 1: SBA would be directed to charge a 3-percent interest rate for all debentures purchased from Mesbic's, as opposed to the current charge equal to the SBA cost of money (with a 5-year interest deferral). This new interest rate would be retroactive, and the excess interest already paid would be credited against future interest payments. Based on SBA data, including the value of the outstanding debentures issued since the program began, as well as the interest rate charged, it is estimated that the interest forgone would be equal to the amounts indicated in the table below. This estimate also assumes a $0.5 million annual growth in the program during the projection period, and credit for the retroactive interest payments applied over the next 3 fiscal years.

[In millions of dollars]

Estimated cost:	
Interest subsidy:	
Fiscal year:	
1979	2.0
1980	2.4
1981	2.6
1982	2.2
1983	2.5

In addition to the costs shown above, the reduction in interest rate could lead to increased demand for SBA purchases of Mesbic preferred stock and debentures, which could affect program funding levels in future years.

Chapter 2: The primary purpose of this chapter is to clarify the guarantee offered to surety companies by SBA through its surety bond guarantee program. Currently, the 1979 budget request allows for an increase in 10 staff positions. It is estimated that the only additional costs as a result of this bill would be to develop additional regulations and to allow for increased field travel for auditors responsible for surveillance. These costs are estimated below.

[In millions of dollars]

Estimated costs:	
Developing and monitoring regulations:	
Fiscal year:	
1979	0.1
1980	.1
1981	.1
1982	.1
1983	.1

Title II

Chapter 1: This chapter would establish a small business and capital ownership development program. It is assumed that the resources required by the program to provide technical and management services to 8(a) contractors will be transferred from the Office of Procurement Assistance, the Office of Management Assistance, and the Office of Minority Small Business, plus the 60 additional staff requested in the 1979 budget for the Office of Business Development. Furthermore, since the bill would require this type of assistance as a requisite for participation in the 8(a) program, it is assumed that if these resources are insufficient (based on the current level of 8(a) ocntracting activities), the number of 8(a) contracts will be reduced to a level where adequate assistance can be provided within current funding levels.

It is also assumed that the costs of creation of the new position, Director of Small Business and Capital Ownership Development (section 202), will be offset by the elimination of the position of Associate Administrator for Minority Small Business (section 204).

The per diem and travel costs for the new 10-member business advisory committee, as well as the program reorganization costs, are summarized below.

[In millions of dollars]

Estimated costs:	
Advisory committee and reorganization:	
Fiscal year:	
1979	0.3
1980	.1
1981	.1
1982	.1
1983	.1

Chapter 2: 8(a) small businesses selected to perform Government contracts would be encouraged to participate in the contract negotiations. It is assumed that the cost of such participation will be covered in the resulting contract. The number of 8(a) participants is projected to be approximately 500 in fiscal year 1979, increasing by 500 each year through fiscal year 1983. The cost for travel and per diem is estimated to be approximately $450 per participant in fiscal year 1979, adjusted for inflation during the projection period. The estimated costs are provided below.

[In millions of dollars]

Estimated costs:	
8(a) contract participation:	
Fiscal year:	
1979	0.2
1980	.5
1981	.8
1982	1.1
1983	1.5

Chapter 3: Section 201 would establish within each Federal Government agency having procurement powers an Office of Small Business Utilization, headed by the Director of Small Business Utilization. This person would be responsible for assigning a small business technical adviser to spend a majority of his time assisting the SBA procurement center representatives in the awarding of contracts to small businesses. It is estimated that approximately 47 full-time positions will be created across all agencies for Director of Small Business Utilization, and that approximately 40 full-time equivalent staff will be needed to serve as technical advisers. It is assumed that these staff will be hired at an average GS–13 level, and will be phased in over a 3-year period. Costs, after adjustment for inflation, aer estimated to be $1.1 million in fiscal year 1979, increasing to $4.0 million in fiscal year 1983.

It is estimated the SBA will require two individuals, a GS–15 and a GS–5, to set guidelines and coordinate the small business prime contracting program, as well as four persons at a GS–13 level with technical backgrounds. Estimated costs, adjusted for inflation and overhead, are $0.2 million in fiscal year 1979, increasing to $0.3 million in fiscal year 1983.

In order to allow SBA to negotiate and monitor agency small business subcontracting plans (pursuant to section 222 of the bill), it is estimated that approximately 136 additional staff members will be needed, at an average grade of GS–11 and phased in over a 3-year period. Estimated costs are $1.2 million in fiscal year 1979, increasing to $4.5 million in fiscal year 1983.

No additional costs are estimated for the OEPP for developing simplified and uniform rules regarding procurements, as this is planned as part of ongoing activities. It is assumed that SBA will assume primary responsibility for developing revised small business procurement regulations at a cost of approximately $250,000 in fiscal year 1980.

In order to develop adequate citations to all applicable Federal laws and regulations to which small businesses must comply, it is estimated that approximately 1,000 hours at a cost of $20 per hour to develop citations for 55 Federal agencies will be required in fiscal year 1979

and fiscal year 1980; thereafter, 300 hours will be needed annually for updating purposes. In addition, it is estimated that approximately $100,000 annually will be required for preparing and processing additional bid sets and specifications. All costs have been adjusted for inflation.

[In millions of dollars]

Estimated costs:	
Salaries and expenses:	
Fiscal year:	
1979	3.2
1980	6.0
1981	8.1
1982	8.9
1983	9.4

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Mary Maginniss.
10. Estimate approved by James L. Blum, Assistant Director for budget analysis.

REGULATION AND PAPERWORK IMPACT

Three parts of this bill have paperwork and regulatory impacts. The first is chapter 2 of title I, the surety bond guarantee program amendments. These amendments authorize SBA to establish standards or otherwise regulate sureties participating in the surety bond guarantee program. The committee believes that few, if any, rules or regulations are actually needed to manage this program. SBA can maintain solid performance by participating sureties through its normal review of sureties' underwriting practices. SBA is authorized to establish rules and regulations, but the committee believes that regulations should be promulgated only when all other administrative measures fail.

The second is chapter 2 of title II, the eligibility rules for the section 8(a) authority. The committee believes that SBA should keep all paperwork for applying for eligibility to a minimum. All application forms should be simple and should not be costly for applicants to complete and file. Also, in promulgating new eligibility regulations, SBA should set objective criteria for determining eligibility wherever it is possible.

The third is chapter 3 of title II, the small business procurement practices amendments. In administering the new small business subcontracting program, all Federal buying activities should keep paperwork requirements for Federal prime contractors to a minimum. The committee believes that the small business subcontracting plans should be simple and represent a minimal paperwork burden for Federal prime contractors.

COMMITTEE ACTION

The bill was favorably ordered reported by the Select Committee on Small Business. There were no rollcall votes during its consideration.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are

shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Small Business Act".

* * * * * * *

SEC. 4. * * *

(b) The management of the Administration shall be vested in an Administrator who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and who shall be a person of outstanding qualifications known to be familiar and sympathetic with small-business needs and problems. The Administrator shall not engage in any other business, vocation, or employment than that of serving as Administrator. In carrying out the programs administered by the Small Business Administration including its lending and guaranteeing functions, the Administrator shall not discriminate on the basis of sex or marital status against any person or small business concern applying for or receiving assistance from the Small Business Administration, and the Small Business Administration shall give special consideration to veterans of the Armed Forces of the United States and their survivors or dependents. The Administrator is authorized to appoint a Deputy Administrator and four Associate Administrators (including the Associate Administrator specified in section 201 of the Small Business Investment Act of 1958) to assist in the execution of the functions vested in the Administration. [One of the Associate Administrators shall be designated at the time of his appointment as the Associate Administrator for Minority Small Business and shall be responsible to the Administrator for the formulation of policy relating to the Administration's programs which provide assistance to minority small business concerns and in review of the Administration's execution of such programs in light of such policy.] The Deputy Administrator shall be Acting Administrator of the Administration during the absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

* * * * * * *

SEC. 7. * * *

[(j)(1) The Administration is authorized to provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under subsection 7(i) of this Act, with special attention to small business located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

[(2) Financial assistance under this subsection may be provided for projects including without limitation—

[(A) planning and research, including feasibility studies and market research;

[(B) the identification and development of new business opportunities;

[(C) the furnishing of centralized services with regard to public services and Government programs including programs authorized under subsection 7(i);

[(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives;

[(E) the encouragement of the placement of subcontracts by major business with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns; and

[(F) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

[(3) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small business concerns by residents of urban areas of high concentration of unemployed or low-income individuals, and to projects which are planned and carried out with the participation of local businessmen.

[(4) The financial assistance authorized by this subsection includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services.

[(5) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

[(6) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

[(7) The Administration shall provide for an independent and continuing evaluation of programs under this subsection, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and types of businesses and individuals assisted, and the extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Administration shall be included in the report required by section 10(a) of this Act.

[(8) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts, and deposits made by the Federal Government or in connection with programs aided with Federal funds are placed in such a way as to further the purposes of this subsection and of subsection 7(i) of

this Act. The Administration shall provide for the continuing evaluation of programs under this subsection and the results of such evaluation together with recommendations shall be included in the report by section 10(a) of this Act.]

(j)(1) The Administration shall provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of this Act, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses owned by low-income individuals, and to small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

(2) Financial assistance under this subsection may be provided for projects including, but limited to,

(A) planning and research, including feasibility studies and market research;

(B) the identification and development of new business opportunities;

(C) the furnishing of centralized services with regard to public services and Federal Government programs including programs authorized under sections 7(i), 7(j)(10), and 8(a) of this Act;

(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives; and

(E) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

(3) The Administration shall encourage the placement of subcontracts by businesses with small business concerns located in areas of high concentration of unemployed or low-income individuals, with small businesses owned by low-income individuals, and with small businesses eligible to receive contracts pursuant to section 8(a) of this Act. The Administration may provide incentives and assistance to such businesses that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under sections 7(i), 7(j), and 8(a) of this Act.

(A) An advisory committee composed of five high level officers from five United States businesses and five representatives of minority small businesses shall be created to facilitate the achievement of the purposes of this paragraph. The members of the advisory committee shall be appointed by the President. The chairman of the advisory committee, who shall be designated by the President, shall report annually to the President and to the Congress on the activities of the advisory committee.

(B) The General Accounting Office shall evaluate the activities taken by the Administration to achieve the purposes of this paragraph and evaluate the success of these activities in achieving the

purposes of this paragraph. The General Accounting Office shall report to the Congress by January 1, 1980, and at any time thereafter at the discretion of the Comptroller General, on the findings of this evaluation and shall make recommendations on actions needed to improve the Administration's performance pursuant to this paragraph.

(4) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

(5) The financial assistance authorized for projects under this subsection includes assistance advanced by grant, agreement, or contract.

(6) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

(7) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

(8) The General Accounting Office shall provide for an independent and continuing evaluation of programs under sections 7(i), 7(j), and 8(a) of this Act, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Comptroller General shall be reported to the Congress by January 1, 1980, and at any time thereafter at the discretion of the Comptroller General.

(9) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government or with programs aided with Federal funds are placed in such way as to further the purposes of sections 7(i), 7(j), and 8(a) of this Act.

(10) There is established within the Administration a Small Business and Capital Ownership Development Program (hereinafter called the "Program"), which shall provide assistance exclusively for small business concerns eligible to receive contracts pursuant to section 8(a) of this Act. The management of the Program shall be vested in a Director of Small Business and Capital Ownership Development (hereinafter called the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall also manage all other services authorized under section 7(j) of this Act. The Director shall be compensated at the rate provided for positions at Executive Level IV appointments.

(A) The Program shall—

(i) assist small business concerns participating in the Program to develop comprehensive business plans with specific business targets, objectives, and goals;

(ii) provide for such other nonfinancial services as deemed necessary for the establishment, preservation, and growth of small business concerns participating in the Program, including but not limited to (1) loan packaging, (2) financial counseling, (3) accounting and bookkeeping assistance, (4) marketing assistance, and (5) management assistance;

(iii) assist small business concerns participating in the Program to obtain equity and debt financing;

(iv) establish regular performance monitoring and reporting systems for small business concerns participating in the Program to assure compliance with their business plans;

(v) analyze and report the causes of success and failure of small business concerns participating in the programs; and

(vi) provide assistance necessary to help small business concerns participating in the Program to procure surety bonds, with such assistance including, but not limited to, (1) the preparation of application forms required to receive a surety bond, (2) special management and technical assistance designed to meet the specific needs of small business concern participating in the Program and which have received or are applying to receive a surety bond, and (3) preparation of all forms necessary to receive a surety bond guarantee from the Administration pursuant to title IV, part B of the Small Business Investment Act of 1958.

(B) Small business concerns eligible to receive contracts pursuant to section 8(a) of this Act shall participate in the Program.

(C) No small business concern shall receive a contract pursuant to section 8(a) of this Act unless the Program is able to provide such small business concern with, including, but not limited to, such mangement, technical, and financial services as may be necessary to promote the competitive viability of the small business concern within a reasonable period of time.

(11) The Director shall be responsible for coodinating and formulating policies relating to Federal assistance to small business concerns eligible for assistance under section 7(i) of this Act and small business concerns eligible to receive contracts pursuant to section 8(a) of this Act.

(k) In carrying out its functions under subsections [7(i) and 7(j)] *7(i), 7(j), and 8(a)* of this Act, the Administration is authorized—

* * * * * * *

SEC. 8. (a) The Congress finds—

(1) that the development of small business ownership among socially and economically disadvantaged persons has been a very slow process;

(2) that, among such businesses are many minority small businesses, which, according to the most recent Census Bureau Statistics, represent less than 4 percent of the total number of businesses in the United States and less than 1 percent of total business sales;

(3) that the opportunity for full participation in our free enterprise system by minority small businesses is essential if we are to obtain social and economic equality for minorities and improve the functioning of our national economy;

(4) that the lack of comprehensive assistance to minority enterprises has led to the failure of many minority small businesses and thus contributed to the minority community's negative perception of competitive business enterprise as a career option and has deprived minorities of the success models that are needed to expedite their general economic development;

(5) that a sustained commitment to minority small business development and a concomitant commitment of economic resources leadership will stimulate increased employment opportunities for minorities and contribute toward minority community development;

(6) that it is in the national interest to expeditiously ameliorate the negative conditions that impact on many minority small businesses and other socially and economically disadvantaged small businesses;

(7) that the power to let sole source Federal contracts pursuant to this subsection can be an effective procurement assistance tool for the development of minority small businesses and socially and economically disadvantaged small businesses; and

(8) that the procurement authority under this subsection shall be used only as a tool for the development of minority small businesses and socially and economically disadvantaged small businesses.

It is, therefore the purpose of this subsection to—

(1) foster business ownership by socially and economically disadvantaged individuals; and

(2) promote the competitive viability of firms owned by such individuals by providing such available contract, financial, technical, and management assistance as may be necessary.

It shall be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary—

* * * * * * *

(3) No small business concern shall be eligible to receive contracts pursuant to this subsection unless such small business concern is at least 51% owned and operated by a socially and economically disadvantaged person, and such small business concern is able to perform on possible contract awards and has reasonable prospects for success in competing in the private sector. In determining economic disadvantage, the Administration shall consider, but not be limited to, the following: (A) in the case of a new small business concern, liquid net assets owned by the individual based on the capital generally required to start a business in the industrial area in which such new business will operate; and (B) in the case of an existing small business concern, the position of the business relative to other businesses in the same industry and the liquid net assets owned by the individual based on the capital generally required to maintain and expand the small business concern in the industrial area in which such business operates. In determining social disadvantage, the Administration shall consider, but not be limited to, whether the owner or owners of the applicant have been deprived of the opportunity to develop and maintain a competitive position in the economy due to cultural bias, general economic deprivation or other similar causes.

(4) Any small business concern selected by the Administration to perform any Federal Government procurement contract to be let pursuant to this subsection shall, when practicable, participate in any negotiation of the terms and conditions of such contract.

(5) Within ninety days after the effective date of this paragraph, the Administration shall publish in the Federal Register rules setting forth those conditions or circumstances pursuant to which a firm previously deemed eligible by the Administration may be denied assistance under the provisions of this subsection: Provided, That no such firm shall be denied total participation in any program conducted under the authority of this subsection without first being afforded a hearing on the record in accordance with chapter 5 of title 5, United States Code.

* * * * * * *

[(d)(1) Within ninety days after the effective date of this subsection, the Administrator, the Secretary of Defense, and the Administrator of General Services shall cooperatively develop a small business subcontracting program which shall contain such provisions as may be appropriate to (A) enable small business concerns to be considered fairly as subcontractors and suppliers to contractors performing work or rendering services as prime contractors or subcontractors under Government procurement contracts, (B) insure that such prime contractors and subcontractors will consult through the appropriate procuring agency with the Administration when requested by the Administration, and (C) enable the Administration to obtain from any Government procurement agency such available or reasonably obtainable information and records concerning subcontracting by its prime contractors and their subcontractors as the Administration may deem necessary: *Provided*, That such program shall not authorize the Administration to (i) prescribe the extent to which any contractor or subcontractor shall subcontract, (ii) specify the business concerns to which subcontracts shall be granted, or (iii) vest in the Administration authority respecting the administration of individual prime contracts or subcontracts: *Provided, further*, That such program shall provide that in evaluating bids or in selecting contractors for negotiated contracts, the extensive use of subcontractors by a proposed contractor shall be considered a favorable factor. The Secretary of Defense and the Administrator of General Services each shall promulgate regulations implementing the program as developed: *Provided*, That prior to the promulgation of such regulations, or any changes therein, the concurrence of the Administration shall be obtained, and if such concurrence cannot be obtained the matter in disagreement shall be submitted to the President who shall make the final determination. In addition, the Administrator of General Services and the Secretary of Defense may issue such other regulations concerning subcontracting not inconsistent with the small business subcontracting program as they each deem necessary or appropriate to effectuate their functions and responsibilities.

[(2) Every contract for property or services (including but not limited to contracts for research and development, maintenance, repair and construction, but excluding contracts to be performed entirely outside of the United States or its territories) in excess of $1,000,000

made by a Government department or agency, which in the opinion of the procuring agency offers substantial subcontracting possibilities, shall require the contractor to conform to the small business subcontracting program promulgated under this subsection, and to insert in all subcontracts and purchase orders in excess of $500,000 which offer substantial possibilities for further subcontracting a provision requiring the subcontractor or supplier to conform to such small business subcontracting program.

[(3) The Administration shall include in any report filed under section 10(b) of this Act, information and such recommendations as it may deem appropriate, with respect to the administration of the small business subcontracting program established under this subsection.

[(4) Nothing in this subsection shall be construed to authorize the Administrator, the Secretary of Defense, or the Administrator of General Services to secure and disseminate technicall data or processes developed by any business concern at its own expense.]

(d)(1) It is the policy of the Federal Government that small business and small business concerns owned by socially and economically disadvantaged persons as defined in subsection (a) of this section, shall have the maximum practicable opportunity to participate in the performance of contracts let by any department or agency of the Federal Government.

(2) The clause stated in paragraph (3) of this subsection shall be included in all contracts let by any department or agency of the Federal Government except any contract or subcontract under such contract which—

(A) does not exceed $10,000;

(B) will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

(C) is for services which are personal in nature.

(3) The clause required by paragraph (2) of this subsection shall be as follows:

"(A) It is the policy of the Federal Government that small business concerns and small business concerns owned and operated by socially and economically disadvantaged persons shall have the maximum practicable opportunity to participate in the performance of contracts let by any department or agency of the Federal Government.

"(B) The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to furnish to the United States Small Business Administration at the Administration's request such available or reasonably obtainable information and records concerning its subcontracting on this and any other Federal Government contract it holds and to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding department or agency of the United States Federal Government as may be necessary to determine the extent of compliance by the contractor with this clause.

"(C) As used in this contract, the term 'small business concern' shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuand thereto. The term 'small business concern owned and operated by socially and economically disadvantaged persons' shall mean a small business concern as defined pursuant to section 8(a) of the Small Business Act and relevant regulations promulgated pursuant thereto.

"(D) Contractors acting in good faith may rely on written representations by their subcontractors that such subcontractors are either a small business concern or a small business concern owned and operated by socially and economically disadvantaged persons.".

(4)(A) Before the award of any contract let by any department or agency of the Federal Government which: (i) is required to include the clause stated in paragraph (3) of this subsection; (ii) may exceed $500,000; (iii) offers subcontracting possibilities; and (iv) is made pursuant to the negotiated method of procurement, the apparent successful offering business concern shall negotiate a final subcontracting plan with the department or agency. Such subcontracting plan and the prior compliance of the offering business concern with other such subcontracting plans shall be considered by the department or agency in determining the responsibility of such offering business concern for the award of the contract: Provided, That, notwithstanding any other provision of law, every department or agency of the Federal Government, in order to encourage subcontracting opportunities for small businesses and small businesses owned and operated by socially and economically disadvantaged persons is hereby authorized to provide such incentives as may be appropriate and commensurate with the efficient and economical performance of the contract.

Upon approval by the department or agency, the subcontracting plan shall be included in and be made a material part of the contract. Such subcontracting plan shall include—

(i) percentage goals for the utilization of small businesses and small businesses owned and operated by socially and economically disadvantaged persons as subcontractors;

(ii) the name of an individual within the offering business concern who will administer the subcontracting program and a description of such individual's duties; and

(iii) a description of how small businesses and small businesses owned and operated by socially and economically disadvantaged persons will be utilized as subcontractors of the offering business concern.

(B) Before the award of any contract let by any department or agency of the Federal Government which: (i) is required to include the clause stated in paragraph (3) of this subsection; (ii) may exceed $1,000,000 if for the construction of any public facility or $500,000 if for any other purpose; (iii) offers subcontracting possibilities; and (iv) is made pursuant to the formal advertising method of procurement, the apparent successful low bidding business concern shall submit to the department or agency a subcontracting plan. Such subcontracting plan and prior com-

pliance of the business concern with other such subcontracting plans shall be considered by the department or agency in determining the responsibility of such business concern for the award of the contract. Upon approval by the department or agency, the subcontracting plan shall be included in and be made a material part of the contract. Such subcontracting plan shall include:

(i) percentage goals for the utilization of small businesses and small businesses owned and operated by socially and economically disadvantaged persons as subcontractors;

(ii) the name of an individual within the apparent successful low bidding business concern who will administer the subcontracting program and a description of such individual's duties; and

(iii) a description of how small businesses and small businesses owned and operated by socially and economically disadvantaged persons will be utilized as subcontractors.

The provisions of this paragraph shall not apply to apparent successful offering or apparent successful low bidding business concerns which are also small business concerns.

(5)(A) The Administration is authorized, at its discretion, to review any final subcontracting plan as may be formulated pursuant to the requirements of paragraph (4) and make appropriate recommendations to the department or agency concerning such subcontracting plan.

(B) At its discretion, the Administration shall have the responsibility for evaluating compliance with subcontracting plans, either on a contract-by-contract basis, or in the aggregate for those contractors performing on multiple contracts.

(C) At the conclusion of each fiscal year, the Administration shall submit to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives a report on subcontracting plans found acceptable by any department or agency of the Federal Government that were determined by the Administration not to contain maximum practicable opportunities for small businesses and small businesses owned and operated by socially and economically disadvantaged persons to participate in the performance of contracts referred to in this subsection.

* * * * * * *

SEC. 15. * * *

(g) The head of each department or agency of the Federal Government shall, after consultation with the Administration, establish goals for the participation by small business concerns in procurement contracts of that department or agency having values of $10,000 or more. Goals established under this subsection shall be jointly established by the Administration and the head of each department or agency of the Federal Government and shall realistically reflect the potential of small business concerns to perform such contracts and to perform subcontracts under such contracts. Whenever the Administration and the head of any department or agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

(h) At the conclusion of each fiscal year, the head of each department or agency of the Federal Government shall report to the Small Business Administration on the extent of participation by small business concerns in procurement contracts of that department or agency. Such reports shall contain appropriate justifications for failure to meet goals established under subsection (g) of this section. The Small Business Administration shall submit to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives information obtained from such reports, together with appropriate comments.

(i) Nothing in this Act or any other provision of law precludes exclusive small business set-asides for procurements of research, development, test and evaluation, and each agency and department of the Federal Government is authorized to develop such set-asides to further the interests of small business in those areas.

(j) Each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods or services being purchased. In utilizing small purchase procedures, contracting officers shall, wherever circumstances permit, choose a method of payment which minimizes paperwork and facilitates prompt payment to contractor.

(k) There is hereby established in each department and each agency of the Federal Government having procurement powers an office to be known as the "Office of Small Business Utilization". The management of each such office shall be vested in an employee of such department or agency who shall—

(1) be known as the "Director of Small Business Utilization" for such department or agency,

(2) be appointed by the head of such department or agency,

(3) be responsible only to, and report directly to, the head of such department or agency or to such other individual within such department or agency who may be designated by the head of such department or agency who holds a position as the Under Secretary (or a position of comparable authority) of such department or agency.

(4) be responsible for the implementation and execution of the functions and duties under sections 8 and 15 of this Act which relate to such department or agency,

(5) have supervisory authority over personnel of such department or agency to the extent that the functions and duties of such personnel relate to functions and duties under sections 8 and 15 of this Act,

(6) assign a small business technical advisor to each office to which the Administration has assigned a procurement center representatives. Such technical advisor shall be a full-time employee of the procuring activity and shall be well qualified, technically trained, and familiar with the supplier or services purchased at the activity. The principal duty of the small business technical

advisor shall be to assist the Administration procurement center representative in his duties and functions relating to sections 8 and 15 of this Act, and

(7) cooperate, and consult on a regular basis, with the Administration with respect to carrying out the functions and duties described in paragraph (4) of this subsection.

This section shall not apply to the Administration.

* * * * * * *

SMALL BUSINESS INVESTMENT ACT OF 1958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Investment Act of 1958".

* * * * * * *

ESTABLISHMENT OF SMALL BUSINESS INVESTMENT DIVISION

SEC. 201. There is hereby established in the Small Business Administration a division to be known as the Small Business Investment Division. The Division shall be headed by an Associate Administrator who shall be appointed by the Administrator, and shall receive compensation at the rate provided by law for other Associate Administrators of the Small Business Administration. *The Associate Administrator so appointed shall be the Associate Administrator for Investment and he shall be responsible to the Administrator solely for the development, execution, and administration of the investment program specified in title III of this Act.*

CAPITAL REQUIREMENTS

SEC. 302. (a) [Each Company authorized to operate under this Act shall have a combined private paid-in capital and paid-in surplus in an amount (1) not less than $150,000, and (2) adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles.]

The combined private paid-in capital and paid-in surplus of any company licensed pursuant to subsections (c) and (d) of section 301 of this Act shall be not less than $150,000, provided, however, that the combined private paid-in capital and paid-in surplus of any company licensed on or after September 1, 1979 pursuant to section 301 (c) and (d) of this Act shall be not less than $500,000. In all cases, such capital and surplus shall be adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles.

BORROWING POWER

SEC. 303. * * *

(b) To encourage the formation and growth of small business investment companies the Administration is authorized (but only to the extent that the necessary funds are not available to said company from private sources on reasonable terms) when authorized in appropriation Acts, to purchase, or to guarantee the timely payment of

all principal and interest as scheduled on, debentures issued by such companies. Such purchases or guarantees may be made by the Administration on such terms and conditions as it deems appropriate, pursuant to regulations issued by the Administration. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection. Debentures purchased or guaranteed by the Administration under this subsection shall be subordinate to any other debenture bonds, promissory notes, or other debts and obligations of such companies, unless the Administration in its exercise of reasonable investment prudence and in considering the financial soundness of such company determines otherwise. Such debenture may be issued for a term of not to exceed fifteen years and shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on such debentures, adjusted to the nearest one-eighth of 1 per centum, plus such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes [.], *or, in the case of a small business investment company operating under authority of section 301(d) of this Act, such debentures shall bear interest at a rate of 3 per centum per annum. The Administration is directed to apply the interest rate of 3 per centum per annum retroactively to outstanding debentures previously purchased by the Administration from a small business investment company operating under authority of section 301(d) and to apply any interest in excess of 3 per centum per annum previously paid to the Administration by such company prior to the effective date of this section, to interest payable after such effective date, without interest on such interest.* The debentures shall also contain such other terms as the Administration may fix, and shall be subject to the following restrictions and limitations: * * *

BORROWING POWER

SEC. 303. * * *

[(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by small business investment companies operating under authority of section 301(d) of this Act. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

[The Administration may purchase—

[(1) share of nonvoting stock (or other securities having similar characteristics), provided—

[(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

[(ii) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Administration) the Administration may require the pre-

ferred payment of the difference between dividends paid thereon and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) for debentures with a term of fifteen years, without interest on such difference;

[(iii) the purchase price shall be at par value and, in any one sale, $50,000 or more; and

[(iv) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a company having combined private paid-in capital and paid-in surplus of less than $300,000 and licensed on or before October 13, 1971, the amount of combined private paid-in capital and paid-in surplus invested after such date, nor (B) from any company having combined private paid-in capital and paid-in surplus of $300,000 or more but less than $500,000 the amount of its combined private paid-in capital and paid-in surplus in excess of $300,000, nor (C) from any company having combined private paid-in capital and paid-in surplus of $500,000 or more, the amount of its combined private paid-in capital and paid-in surplus.

[The Administration may purchase or guarantee—

[(2) debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)), provided—

[(i) such debentures are issued for a term of not to exceed fifteen years;

[(ii) the interest rate is determined pursuant to sections 303(b) and 317; and

[(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of its combined private paid-in capital and paid-in surplus less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having combined private paid-in capital and paid-in surplus of $500,000 or more 400 per centum of its combined private paid-in capital and paid-in surplus less the amount of such preferred securities.

[(3) debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(iii) of this subsection (c).

[(4) the Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintains a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.]

(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities (or other securities having similar characteristics) of small business investment companies operating under authority of section 301(d) of this Act, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by such small business investment companies. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

(1) The Administration may purchase from any such company shares of nonvoting stock (or other securities having similar characteristics), provided—

(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

(ii) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities and any unpaid dividends to the extent retained earnings shall permit;

(iii) the purchase price shall be at par value; and

(iv) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from any such company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such companies, or (B) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or (C) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus.

(2) The Administration may purchase from or guarantee for any such company debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection), provided——

(i) such debentures are issued for a term of not to exceed fifteen years;

(ii) the interest rate is determined pursuant to section 303 (b); and

(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph from (A) any such company having a combined private paid-in surplus of less than $500,000, shall not exceed 300 per centum of such capital and surplus, less the amount of preferred securities outstanding under paragraph (1) of this subsection, or (B) any such company having a combined private paid-in capital and paid-in surplus of $500,000 or more, shall not exceed 400 per centum of such capital and surplus, less the amount of preferred securities outstanding under paragraph (1) of this subsection.

(3) Debentures purchased and outstanding pursuant to subsection (b) of this section may be retired simultaneously with the

issuance of preferred securities to meet the requirements of subparagraph (2)(iii) of this subsection.

(4) The Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of any such company, that such company maintain a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.

PENALTIES AND FORFEITURES

* * * * * * *

SEC. 317 [Notwithstanding section 303(b), the effective rate of interest after October 13, 1971, during the first five years thereafter of the term of any debenture purchased by the Administration from a small business investment company under authority of section 303 (c), shall be the greater of 3 per centum or 3 percentage points below the interest rate determined pursuant to section 303(b). The Administration is authorized to apply interest paid to it by such company for the period from October 13, 1971, to the effective date of this section, without interest theron, to interest payable after such effective date. No company which has received the benefit of this section may make a distribution (other than to the Administration) unless it has first paid to the Administration an amount equal to the difference between the rate of interest payable to the Administration pursuant to the previous sentence, and the rate of interest which would have been payable pursuant to section 303(b).] *The authority heretofore vested in the Administration to require payment of the difference between the dividends paid and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) is hereby rescinded.*

PART B—SURETY BOND GUARANTEES

DEFINITIONS

SEC. 410. As used in this part—

* * * * * * *

(4) the term "surety" means the person who, (A) under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond, (B) under the terms of a performance bond, undertakes to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract, [or] (C) under the terms of a payment bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work provided for in the contract if the principal fails to make prompt payment [.], *or (D) is an agent, underwriter, or any other company or individual empowered to act on behalf of such person.*

AUTHORITY OF THE ADMINISTRATION

SEC. 411. [(a) The Administration may, in consultation with the Secretary of Housing and Urban Development and upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss, as hereinafter provided, as the result of the breach of the terms of a bid bond, payment bond, or performance bond by a principal on any contract up to $1,000,000 in amount, subject to the following conditions:

[(1) the person who would be the principal of the bond is a small business concern.

[(2) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon.

[(3) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section.

[(4) the Administration determines that there is a reasonable expectation that such person will perform the covenants and conditions of the contract with respect to which the bond is required.

[(5) the contract meets requirements established by the Administration for feasibility of successful completion and reasonableness of cost.

[(6) the terms and conditions of any bond guarantee under the authority of this part are reasonable in light of the risks involved and the extent of the surety's participation.

[(b) Any contract of guarantee under this section shall obligate the Administration to pay to the surety a sum not to exceed 90 per centum of the loss incurred by the surety in fulfilling the terms of his contract as the result of the breach by the principal of the terms of a bid bond, performance bond, or payment bond.

[(c) The Administration shall administer this program on a prudent and economically justifiable basis and shall fix a uniform annual fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration shall also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. Any contract of guarantee under this section shall obligate the surety to pay the Administration such portions of the bond fee as the Administration determines to be reasonable in the light of the relative risks and costs involved. Within 30 days after the date of enactment of this sentence and at monthly intervals thereafter, the Administration shall publish the cost of the program to the Administration for the month immediately preceding the date of publication. The Administration shall conduct a study of the program in order to determine what must be done to make the program economically sound. Within one year after the date of enactment of this sentence, the Administration shall transmit a report to Congress containing a detailed statement of the findings and conclusions of the study, together with its recommendations for such legislative and administrative actions as it deems appropriate.

[(d) The provisions of section 402 shall apply in the Administration of this section.]

(a) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety (the terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety) against loss, as hereinafter provided, as the result of the breach or, when a breach is imminent, to prevent a breach, of the terms of a bid bond, payment bond, performance bond or bonds ancillary and coterminous therewith by a principal on any contract up to $1,000,000, subject to the following conditions:

(1) the person who would be the principal of the bond is a small business concern;

(2) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon;

(3) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section.

(b) Any guarantee under this section shall obligate the Administration to pay to the surety a sum not to exceed 90 per centum of the loss incurred and paid by the surety to or on behalf of the obligee, or to labor and materialmen, in fulfilling the terms of the contract as the result of the breach or, when a breach is imminent, to prevent a breach, by the principal of the terms of a bid bond, performance bond, payment bond or bonds ancillary and coterminous therewith.

(c) The Administration may establish and periodically review regulations for participating sureties which shall require such sureties to meet Administration standards for underwriting, claim practices and loss ratios.

(d) Pursuant to any such guarantee, the Administration shall reimburse the surety, as provided in subsection (b) of this section, except that the Administration shall be relieved of all liability in the following circumstances:

(1) the surety obtained such guarantee or applied for such reimbursement by fraud or material misrepresentation, or

(2) the total contract amount at the time of execution of the bond or bonds exceeds $1,000,000.

(e) The Administration may, upon such terms and conditions as it may prescribe, adopt a procedure for reimbursing a surety for its paid losses billed each month, based upon prior monthly payments to such surety, with subsequent adjustments after such disbursement.

(f) The Administration may at all reasonable times audit in the offices of a participating surety all documents, files, books, records and other material relevant to the Administration's guarantee or commitments to guarantee any surety pursuant to this subsection.

(g) The Administration shall administer this part on a prudent and economically justifiable basis and establish such fee or fees for small business concerns and premium or premiums for sureties as it deems reasonable and necessary, to be payable at such time and under such conditions as may be determined by the Administration.

(h) The provisions of Section 402 shall apply in the administration of this section.

TITLE 5—UNITED STATES CODE

GOVERNMENT ORGANIZATION AND EMPLOYEES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws relating to the organization of the Government of the United States and to its civilian officers and employees, generally, are revised, codified, and enacted as title 5 of the United States Code, entitled "Government Organization and Employees", and may be cited as "5 U.S.C., §", as follows:

* * * * * * *

Chapter 53—Pay Rates and Systems

* * * * * * *

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * * * *

(122) *Director of Small Business and Capital Ownership Development, Small Business Administration.*

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Calendar No. 993

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1071

ESTABLISHMENT OF OFFICES OF INSPECTOR AND AUDITOR GENERAL IN CERTAIN EXECUTIVE DEPARTMENTS AND AGENCIES

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 8588

TO REORGANIZE THE EXECUTIVE BRANCH OF THE GOVERNMENT AND INCREASE ITS ECONOMY AND EFFICIENCY BY ESTABLISHING OFFICES OF INSPECTOR GENERAL WITHIN THE DEPARTMENTS OF AGRICULTURE, COMMERCE, HOUSING AND URBAN DEVELOPMENT, THE INTERIOR, LABOR, AND TRANSPORTATION, AND WITHIN THE COMMUNITY SERVICES ADMINISTRATION, THE ENVIRONMENTAL PROTECTION AGENCY, THE GENERAL SERVICES ADMINISTRATION, THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, THE SMALL BUSINESS ADMINISTRATION AND THE VETERANS' ADMINISTRATION, AND FOR OTHER PURPOSES

AUGUST 8 (legislative day, May 17), 1978.—Order to be printed

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ESTABLISHMENT OF OFFICES OF INSPECTOR AND AUDITOR GENERAL IN CERTAIN EXECUTIVE DEPARTMENTS AND AGENCIES

AUGUST 8 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. EAGLETON, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany H.R. 8588]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 8588) to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration and the Veterans' Administration, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and an amendment to the title, and recommends that the bill, as amended, do pass.

I. PURPOSE OF THE LEGISLATION

The purpose of this legislation is to create Offices of Inspector and Auditor General in seven executive departments and six executive agencies, to consolidate existing auditing and investigative resources to more effectively combat fraud, abuse, waste and mismanagement in the programs and operations of those departments and agencies.

II. SUMMARY OF THE LEGISLATION

H.R. 8588, as amended by the committee, requires the appointment of an Inspector and Auditor General in each of the 13 affected execu-

tive departments and agencies.[1] Each Inspector and Auditor General will be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation, solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

The duties and responsibilities of the Inspector and Auditor General include: (1) providing policy direction for the auditing and investigating activities of the establishment; (2) reviewing existing and proposed legislation and regulations relating to programs and operations of the establishment and making recommendations to the head of the agency and to Congress concerning the enforceability of such legislation and regulations; (3) supervising other activities for the purpose of promoting economy, efficiency and effectiveness in the administration of such programs, or preventing or detecting fraud and abuse in such programs; (4) coordinating relationships between the agency and other Federal agencies, state and local governmental agencies and non-governmental entities; and (5) keeping the head of the agency and Congress fully and currently informed concerning fraud and other serious problems in the operation of programs.

The Inspector and Auditor General reports to, and is under the general supervision of, the head of the agency. However, the head of the agency may not prohibit, prevent or limit the Inspector and Auditor General from undertaking and completing any audits and investigations which the Inspector and Auditor General deems necessary, or from issuing any subpoenas deemed necessary in the course of such audits and investigations. The Inspector and Auditor General may be removed by the President, but the President must also communicate his reasons for doing so to the Congress.

The Inspector and Auditor General is required to prepare semiannual reports for the Congress, including:

(1) A description of significant problems, abuses and inefficiencies in the administration of programs and operations;

(2) Recommendations made by the Inspector and Auditor General for corrective action;

(3) Identification of all previous significant recommendations in which corrective action has not been completed;

(4) A summary of matters referred to prosecutive authorities and prosecutions and convictions which have resulted; and

(5) A listing of each audit report completed by the Office during a reporting period.

The semiannual reports shall be transmitted to the head of the agency and then to the appropriate committees or subcommittees of Congress within 30 days. The head of the agency may submit his own comments along with the Inspector and Auditor General's report, but may not generally prevent the report from going to Congress or alter or delete the report. Within 60 days after the report goes to Congress, the agency head must make copies of the report available to the public at a reasonable cost.

[1] Throughout this report, "agency" will be used to describe both the executive departments and agencies involved.

If the Inspector and Auditor General discovers a particularly serious flagrant abuse, the legislation requires that he immediately notify the head of the agency and that the head of the agency transmit such notification to the Congress within 7 calendar days.

The Inspector and Auditor General is given the authority to have access to all records, reports, documents or materials available to the agency relating to programs over which the Inspector and Auditor General has responsibility; to make all investigations and reports relating to programs that he judges necessary; and to require by subpoena the production of information, documents and reports necessary in the performance of the functions of this act.

The legislation also provides that the Inspector and Auditor General may receive and investigate employee complaints. The Inspector and Auditor General is required to keep the identity of such complaining employees confidential unless he determines that disclosure of the identity is unavoidable during the course of an investigation. Such employees would be protected from reprisals by their supervisors in all cases unless the complaint was knowingly false or made with complete disregard for its truth or falsity.

As passed by the House, H.R. 8588 covered 12 executive departments and agencies. The committee has decided that the legislation should also cover the Department of Defense. The legislation contains several provisions necessary to meet the unique needs of the Defense Department.

In 1976, Congress established the Office of Inspector General in the Department of Health, Education, and Welfare (Public Law 94–905, 42 U.S.C. § 3525). In 1977, the Department of Energy Organization Act included a provision for an Office of Inspector General in the new department (sec. 208, Public Law 95–91, 42 U.S.C. § 7138). H.R. 8588, as reported by the committee, extends the concept to 13 additional departments, drawing heavily on the earlier legislation, but making several important changes

III. Hearings

H.R. 8588 passed the House by a vote of 388–6 on April 18, 1978. Senator Eagleton's Subcommittee on Governmental Efficiency and the District of Columbia held hearings on the bill on June 14 and 15, and July 25, 1978. The following witnesses presented testimony:

Representative L. H. Fountain (Democrat of North Carolina)
John Keeney, Mark Richard and Jim Graham, Criminal Division, Department of Justice
Tom Morris, Inspector General, HEW
Elmer B. Staats, Comptroller General of the United States
Donald Scantlebury, Director, Financial and General Management Studies Division, General Accounting Office
Larry Hammond, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice
Jay Solomon, Administrator, General Services Administration
Andrew Feinstein, Public Citizen Congress Watch
Deanne Siemer, General Counsel, Department of Defense
Theodore Eliot, Inspector General, Foreign Service, Department of State

Herbert Beckington, Auditor General, Agency for International Development

Representative Fountain's testimony deserves particular note, because he has long been the leading advocate in Congress of the Inspector General concept, and was the moving force behind the establishment of the Office of Inspector General at HEW. In 9 days of hearings before his Subcommittee on Intergovernmental Relations and Human Resources, in 1977, he compiled a painstaking and detailed picture of how the agencies covered by H.R. 8588 approached their auditing and investigative responsibilities. His testimony before Senator Eagleton's subcommittee summarized those findings, and the committee has drawn valuable insight and information from the House hearings.

IV. Need for Legislation

1. Scope of the Problem

Recent evidence makes it clear that fraud, abuse and waste in the operations of Federal departments and agencies and in federally-funded programs are reaching epidemic proportions. Undoubtedly, the problem is not new. However, increased attention by the press and by government officials has brought to light increasingly disturbing testimony of the magnitude of these problems.

The following examples are illustrative:

A study done for the Agriculture Department estimated that 8 percent of the $5.5 billion spent in the food stamp program in fiscal year 1977 was erroneously spent—about $440 million. A 33 percent error rate was revealed in one 3-month study of the program in one State.

FBI and GAO investigators have found that the General Services Administration awarded over $2 million in repair and alteration contracts which have never been performed. Managers of GSA supply shops have been receiving color televisions, stereo equipment, and clothing from wholesale firms as kickbacks for the awarding of contracts. GSA employees then allowed the firms to bill GSA for supplies and services which were never delivered.

As of last July, 344,000 borrowers had defaulted on their federally insured loans. The default rate was 12 percent, involving over half-a-billion dollars in unpaid principal and interest. While some of the failure to pay was undoubtedly due to financial hardship, many cases simply involved people who never intended to pay.

In his first annual report, the Inspector General at HEW estimated that between $6.3 and $7.4 billion of HEW funds were misspent annually as a result of fraud, abuse and waste. This total represents about 5 percent of the $136 billion which HEW expends on federally funded programs each year. The report repeatedly emphasized that this figure was "at a minimum" and "a conservative estimate." In the medicaid program, the Inspector General estimated that 25 percent of the funds were misused.

Finally, an official at GAO knowledgeable in this area recently estimated that fraud alone ranged from $12 to $15 billion annually and perhaps as high as $25 billion.

Most of these examples involve fraud. Waste and mismanagement of Federal funds and expenditures are less attractive topics and more difficult to pin down. Nevertheless, for years there has been ample evidence that waste and mismanagement in Federal spending is of extraordinary magnitude. Senator Proxmire recently reported that the transportation bills alone for Government officials now total $2.7 billion. The House Government Operations Committee has estimated that at least $375 million may be wasted on trips of little or no value.

2. DEFICIENCIES IN CURRENT FEDERAL EFFORTS TO COMBAT FRAUD, ABUSE AND WASTE

The committee believes that the Federal Government has clearly failed to make sufficient and effective efforts to prevent and detect fraud, abuse, waste and mismanagement in Federal programs and expenditures. Moreover, the committee finds that this failure is due, in large part, to certain basic organizational deficiencies in the way executive establishments have approached their audit and investigative responsibilities. For this reason, statutory Offices of Inspector and Auditor General in the establishments covered in this bill can provide significant improvements in the economy, efficiency and effectiveness of Federal operations and programs and contribute to substantial savings of taxpayer dollars.

a. Lack of resources

Representative Fountain testified that the Federal effort to prevent and detect fraud, abuse and waste in Federal expenditures has suffered from a crippling lack of resources in most establishments. For example, the Department of Transportation had only four inspectors to detect fraud and abuse in a $6 billion highway program. The Veterans' Administration had one auditor for every $238 million provided by Congress. The Interior Department admitted that its audit manpower was sufficient for only half the agency's priority workload, with no resources available for affirmative programs to detect fraud. Representatives of the Labor Department and the Small Business Administration testified they have only one-half the audit manpower they need; the Community Services Administration suggested its audit resources were even less.

As a result of this lack of resources, the internal audit cycles (the length of time for all activities of the department to be audited) are extremely long. GSA testified it would take as long as 20 years to audit all activities given that agency's present resources; Commerce, 13; Interior, 9 or 10; DOT, 10. Certain agencies indicated that while their audit cycle was theoretically five years, it really took closer to 15 to complete it.

b. Deficiencies in organizational structure

The Federal audit and investigative effort in most cases flies in the face of basic organizational principles. The General Accounting Office has repeatedly argued that for audit and investigative capacity to be effective, authority must be vested in an individual reporting to, and under the supervision of, only the head of the establishment. As stated in one recent GAO report:

> Government agencies, if they are to receive the full benefits of internal auditing, must locate their audit functions at a sufficiently high organizational level to insure that auditors are insulated against internal agency pressures so that they can conduct their auditing objectively and report their conclusions completely without fear of censure or reprisal.[2]

The alternative is an exercise in futility where auditors and investigators report to, and are under the supervision of, the very officials whose programs they are supposedly auditing and investigating.

In most of the agencies covered by this legislation, this cardinal principle is being violated. In many cases, the audit and investigative units report to the Assistant Secretary for Administration, the person whose broad policy responsibilities are often likely to be questioned and investigated. In general, the lack of independence of many audit and investigative operations in the executive branch is striking. In some agencies where complaints have been received, investigators have not been permitted to initiate investigations without clearance from the officials responsible for the programs involved. The chief of the Community Services Administration's inspection division, for example, testified that he had been denied permission to investigate allegations of wrongdoing in several cases. In one such case, a later investigation resulted in 22 indictments.

The committee feels strongly that this bleak picture is not the fault of those involved in audit and investigative work for the Federal Government. Hamstrung by a lack of resources and independence, their failures have been preordained. Both the executive branch and Congress have disregarded the need to insure that Federal funds are spent carefully and in accordance with law. The executive agencies have emphasized program operation over program oversight and review. According to the New York Times, OMB has repeatedly reduced the size of audit and investigative units in the executive agencies. Congress has enacted legislation with very little regard for how well it could be enforced or administered.

3. THE INSPECTOR GENERAL CONCEPT: HOW IT RESPONDS TO PERCEIVED PROBLEMS

The inspector general concept, which can best be described as the consolidation of auditing and investigative responsibilities under a single high-level official reporting directly to the head of the establishment, responds directly to the major problems which have been identified in current Federal efforts to prevent and detect fraud and waste.

First, it provides a single focal point in each major agency for the effort to deal with fraud, abuse and waste in Federal expenditures and programs. Without that focal point, the linkage between auditing and investigating is likely to be ineffective. Frequently, several decentralized audit units may each have jurisdiction over some elements of a wide-ranging programmatic fraud and not be able to pursue them to their conclusion. Additionally, this type of coordination and leader-

[2] Report to the Congress by the Comptroller General, "Why the Army Should Strengthen Its Internal Audit Function," July 26, 1977, p. 17.

ship strengthens cooperation between the agency and the Department of Justice in investigating and prosecuting fraud cases. The Department testified emphatically that those agencies which have been the most effective co-partners with the Department have been those with viable offices of Inspector General. As Deputy Assistant Attorney General Keeney testified:

> The combining of audit and investigation functions under an Inspector General in the respective departments and agencies virtually ensures that the performance of the agencies will improve.

Passage of this legislation will upgrade the auditing and investigative functions in the executive agencies by making it clear that Congress takes the problem and responsibilities seriously. The Inspector and Auditor General would be a presidential appointee, confirmed by the Senate. Additionally, the legislation gives the Inspector and Auditor General no conflicting policy responsibilities which could divert his attention or divide his time; his sole responsibility is to coordinate auditing and investigating efforts and other policy initiatives designed to promote the economy; efficiency and effectiveness of the programs of the establishment. The Inspector and Auditor General will also be a strong advocate for additional resources if needed.

Above all, the Inspector and Auditors General created in this legislation would have the requisite independence to do an effective job. There is a natural tendency for an agency administrator to be protective of the programs that he administers. In some cases, frank recognition of waste, mismanagement or wrongdoing reflects on him personally. Even if he is not personally implicated, revelations of wrongdoing or waste may reflect adversely on his programs and undercut public and congressional support for them. Under these circumstances, it is a fact of life that agency managers and supervisors in the executive branch do not always identify or come forward with evidence of failings in the programs they administer. For that reason, the audit and investigative functions should be assigned to an individual whose independence is clear and whose responsibility runs directly to the agency head and ultimately to the Congress.

This legislation accomplishes that, removing the inherent conflict of interest which exists when audit and investigative operations are under the authority of an individual whose programs are being audited. The Inspector and Auditor General would be under the general supervision of the head of the agency or his deputy, but not under the supervision of any other official in the agency. Even the agency head would have no authority to prevent the Inspector and Auditor General from initiating and completing audits and investigations he believes necessary.

The committee believes that the potential for improvement is not simply theoretical. Representative Fountain testified that from 1962 to 1974, the Office of Inspector General at the Department of Agriculture, created administratively, "resulted in very substantial improvements in the auditing and investigating functions of that department." In response to scandals in Federal housing programs in the late 1960's, the Department of Housing and Urban Development also established

an Office of Inspector General and committed substantial resources to the task of auditing and investigating. Since that time, the Department is generally credited with impressive progress in bringing fraud under control. Since 1972, HUD officials have helped to prosecute some 1,000 individuals for defrauding the housing programs.

The case of HEW, where Congress created the first statutory Inspector General in 1976, is also instructive. At the time that Senator Eagleton's subcommittee held hearings on this legislation, the HEW Inspector General had been in office more than a year and had filed his first annual report with the Congress. While the hearings were in no way intended to be a comprehensive inquiry into the workings of the Inspector General's operation, the committee is encouraged about the scope of Mr. Morris' efforts, the progress that has been made, and the candor and independence which his report reflects.

The HEW Inspector General has begun to spearhead a nationwide effort to deal systematically with medicaid fraud, entitled "Project Integrity." Using computer screening to identify doctors and pharmacists performing services which appeared unusual when compared with certain norms, the Inspector General had, as of March 1978, chosen 535 cases for a full investigation, meaning that grounds for criminal prosecution were found likely to exist; 554 others have been selected as meriting administrative action—recovery, reprimands, suspension or termination—and suitable investigaitons were going forward. Unusually close coordination between the Federal Government and the States and localities have apparently characterized this effort (and others initiated by Mr. Morris' office).

The Inspector General's report also indicates that Mr. Morris and his deputy, Charles Ruff, are actively involved in the reviewing of existing legislation and proposed regulations in order to offer guidance concerning their likely impact on fraud and abuse control as well as economy and efficiency. The committee believes that this is a particularly vital role for the Inspector and Auditor General to play. The Inspector and Auditor General should not simply investigate fraud and waste after they have occurred. Rather, his preventive and deterrent function—including the development of front-end controls when designing benefit programs—should be crucial.

In addition to specific initiatives taken, Mr. Morris has generally reviewed the scope of the department's programs, established audit and investigative priorities, and made a detailed case as to why additional audit resources may be necessary. Overall, there is good reason to agree with Representative Fountain's assessment that the Inspector General "has been responsible for substantial and badly needed progress in improving HEW's administrative operations" from the disarray found in 1976.

Finally, the committee cannot overlook the importance of having an Inspector General willing to set forth publicly "best estimates" of current fraud, abuse and waste in agency programs and operations. The report that between $6.3 and $7.4 billion in HEW funds have been misspent has created a substantial furor and intensified the criticism of the agency's programs. Undoubtedly, it would have been easier for the department if those estimates had never been made public. However, Congress and the public derive extraordinary benefits when an agency identifies its problems and management begins to confront them.

4. BALANCING INDEPENDENCE AND THE NEEDS OF MANAGEMENT

In general, the agencies covered by H.R. 8588 opposed this legislation during its development in the House. Part of this opposition stemmed quite naturally from an unwillingness to admit that internal efforts had failed to deal adequately with fraud, waste and mismanagement. But the concerns went somewhat further, and continues to linger even though the administration has endorsed the concept of H.R. 8588. They reflect an apparent feeling that the Inspector and Auditor General may become an adversary of the agency head and undermine his ability to run the agency. Focusing on the special responsibilities to report to Congress, some critics have argued that the Inspector and Auditor General will be serving two masters, making the position untenable.

The committee (and its House counterpart) have carefully considered this problem and tried to strike a workable balance. On the one hand, the committee recommends this legislation because "business as usual" has not worked. With rare exceptions, the agencies have not adequately policed their own operations and programs. The committee wants Inspector and Auditors General of high ability, stature and an unusual degree of independence—outsiders, at least to the extent that they will have no vested interest in the programs and policies whose economy, efficiency and effectiveness they are evaluating.

However, the committee believes that an Inspector and Auditor General's efforts will be significantly impaired if he does not have a smooth working relationship with the department head. As HEW Inspector General Morris testified:

> To be truly effective, the Inspector General must have a close relationship with the Secretary, enjoy his confidence and respect, and be responsive to his concerns, both as to his specific assignments and as to the Inspector General's overall function in the agency.

If the agency head is committed to running and managing the agency effectively and to rooting out fraud, abuse and waste at all levels, the Inspector and Auditor General can be his strong right arm in doing so, while maintaining the independence needed to honor his reporting obligations to Congress. The committee does not doubt that some tension can result from this relationship, but the committee believes that the potential advantages far outweigh the potential risks.

The committee believes that H.R. 8588 insures the independence of the Inspector and Auditor General by making him a presidential appointee, subject to Senate confirmation, and by taking the unusual step of requiring the President to report to Congress explaining his reasons for removing an incumbent of the office. Additionally, the Inspector and Auditor General derives independence from the fact that the agency head can add his comments to the semi-annual report of the Inspector and Auditor General but cannot generally prevent it from going to Congress or change its contents.

At the same time, however, the committee has deleted certain features of the earlier Inspector General legislation which carried the greatest potential for tension between the Inspector General and the agency head, and the executive and legislative branches. The legislation establishing the HEW and Energy Inspectors General provided that

"each Inspector General . . . shall provide such additional information or documents as may be requested by either House of Congress, or with respect to the matters within their jurisdiction, by any committee or subcommittee thereof." Coupled with the Inspector and Auditor General's statutory access to all the papers of the department relevant to his function, this provision prompted concern in the executive branch that the Inspector General could be used as a conduit of sensitive executive branch materials to Congress. Deletion of that provision allays these fears.

V. Committee Changes in H.R. 8588

H.R. 8588, as it passed the House, was a carefully-crafted piece of legislation deserving prompt consideration in the Senate in order to maximize the chances of enactment into law during this Congress. The committee has made several significant changes in H.R. 8588, which the committee believes are important strengthening additions, fully compatible with the purpose of the legislation. The most significant change—the inclusion of the Department of Defense—is discussed in detail below.

1. Auditing provisions

The committee added statutory provisions dealing with the auditing responsibilities of Inspectors General to H.R. 8588 as passed by the House. The purpose of these provisions is to clarify the intent of Congress regarding such responsibilities, and to assure that proper auditing will be a required function of each Office established by the bill.

The committee's experience has shown that proper auditing and accounting are often relegated to secondary importance by Federal officials who are primarily concerned with fulfilling statutory requirements and objectives of the programs they administer. An overemphasis on program objectives at the expense of program accountability has hindered in many cases the development of strong internal audit organizations supported by adequate staff and resources. Adoption of the additional auditing provisions should correct deficiencies in this area by making sound audits a statutory reqirement and focusing attention on the sufficiency of audit resources.

In testimony supporting H.R. 8588 and an appropriate balance between audit and investigative responsibilities, the General Accounting Office endorsed each of the auditing provisions proposed by the committee, and recommended that the title of Inspector General be amplified to reflect the importance of the audit function. The Comptroller General testified that "the name of the organizations established by the bill will set the tone for how they operate," and suggested a title such as Inspector and Auditor General. The GAO also stated its finding that "internal auditors nearly always pay their own way many times over by performing audit work that leads to: recovery of overpayments from grantees and contractors, adoption of more efficient and economical ways of conducting agency operations, and tightening of controls over cash and other assets to make fraud and abuse more difficult." The irony of inadequate attention to proper auditing by many program officials is underscored by GAO's estimate

that audit-related savings run into many billions even though agencies do not always take full advantage of internal auditors' work.

The GAO's support for explicitly requiring comprehensive audits and compliance with appropriate standards in the bill is based on its extensive experience in evaluating internal audit activities of Federal agencies. Since December, 1975, the GAO has issued 31 reports detailing inadequate audit procedures at the 13 departments and agencies included in the bill reported by the committee. Eleven of those reports concern deficiencies within agencies of the Department of Defense. Most of the deficiencies noted by GAO in those reports could have been avoided if proper audits had been conducted in accordance with appropriate standards.

Weaknesses in financial auditing of Federal agencies were disclosed in a recent report prepared by GAO at the request of this committee.[3] A survey of 418 units—in Cabinet-level Departments and independent executive agencies, international organizations, government corporations, and other committees, commissions and boards—found that one-third of them did not receive a financial audit of their accounts and records during fiscal years 1974 through 1976. The units which had not undergone a financial audit during those years received funds in excess of $20 billion in fiscal year 1977. Six of the departments included in the bill—the Departments of Agriculture, Commerce, Defense, Housing and Urban Development, the Interior and Labor—had unaudited units with aggregate authorized budgets approximating $3.5 billion.

The committee expects that Federal agencies will be able to estimate and budget for sufficient audit resources once Congress has clearly stated the scope of required audits and the standards to be followed. The Office of Inspector and Auditor General will provide a focal point for requesting additional resources where needed.

The office of Management and Budget generally supported the additional provisions, but expressed two objections. The first is that the Inspector and Auditor General should not be given statutory authority to review "program results" because that might limit the ability of agency heads to assign that function somewhere else. The OMB acknowledged that the Inspector and Auditor General has a legitimate role in assessing "program results" as part of his overall audit responsibilities, but noted that OMB Circular No. A–73, which addresses Audit of Federal Operations and Programs, states that "the audit scope should be tailored to each specific program acording to the circumstances relating to the program, the management needs to be met, and the capacity of the audit facilities."

The committee believes that looking at program effectiveness will often be incidental to a financial audit or an audit aimed at reviewing economy and efficiency. The committee also believes that the independence of the Inspector and Auditor General can make his evaluations of program effectiveness particularly valuable to the agency head, as well as the public and Congress. However, the committee recognizes that too much emphasis by the Inspector and Auditor General on program effectiveness may detract from his principal mission: concern

[3] Report to the Congress by the Comptroller General, "Financial Audits in Federal Executive Branch Agencies," June 6, 1978.

for preventing, deterring and identifying fraud, abuse and waste in agency operations and programs. For this reason, the Inspector and Auditor General should be particularly aware of the efforts and mandate of existing program effectiveness or review units in the agency to avoid duplication of effort.

The second objection expressed by OMB deals with requiring each Inspector and Auditor General to comply with standards established by the Comptroller General of the United States for audits of governmental establishments, organizations, programs, activities and functions. The OMB believes that it should be left with the authority to require implementation of audit standards through such means as Circular No. A–73.

GAO is the only Federal organization which has established appropriate auditing standards, and has been doing so for over 20 years. The committee believes that this bill is an appropriate medium for Congress to require that such standards be followed by major Departments and agencies. Since Congress has the unquestioned authority to prescribe the audit standards to be followed by executive departments and agencies, the delegation by the Congress to GAO, a legislative agency, is not open to question.

2. PRIVACY ACT CONSIDERATIONS

As passed by the House, H.R. 8588 contains the following provision concerning the authority of the Inspector General to obtain information pursuant to the Privacy Act of 1974 (5 U.S.C. 552a):

> In the event any record or other information requested by the Inspector General under subsection (a)(1) or (a)(2) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

This provision is the same as that which appears in the statute establishing an Office of Inspector General in the Department of Health, Education and Welfare. No similar provision appears in the legislation which established an Office of Inspector General within the Department of Energy.

The Privacy Act prohibits a Federal agency from disclosing information maintained by the agency in a system of records about an individual without the prior written consent of the individual concerned. The section contains 11 exemptions permitting disclosure without consent of the individual concerned under particular circumstances, including the following:

(1) Intra-agency disclosure to personnel who have a need for the information in the performance of their duties;

(3) Disclosure for a "routine use", which is defined as the use of such information for a purpose which is compatible with the purpose for which it was collected;

(7) Disclosure to governmental agencies for a legally-authorized civil or criminal law enforcement activity in accordance with procedures specified in the Act;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office.

The committee interprets the House language as seeking to create an exemption for the new Inspector and Auditors General comparable to the existing exemption granted to the Comptroller General. The committee believes such a step is unnecessary and did not include this section in the bill as reported.

The House language would grant to an Inspector and Auditor General a power that no other official of the executive branch has—the authority to require the transfer of personal information from any agency to the Inspector and Auditor General without regard for the protections of the Privacy Act. Currently, the President, department Secretaries and heads of agencies, and all individual members of Congress and committees must comply with the Privacy Act. The committee can see no reason for granting special status to the Inspector and Auditors General. Given the fact that H.R. 8588 establishes Inspector and Auditors General in 13 major departments and agencies, such an exemption would totally negate the effect of the Privacy Act by permitting private information about individuals to flow freely between nearly every major department and agency, unencumbered by the protections of the Privacy Act.

Complying with the Privacy Act does not mean that an Inspector and Auditor General will be unable to obtain needed information to perform his responsibilities. It simply means that the information must be obtained in conformity with the exemptions and procedures of the act. Under the Privacy Act, for instance, all information within the agency would be available to the Inspector and Auditor General, based on the "intra-agency" exemption. Information sought from other agencies could generally be obtained under the "routine use" or "law enforcement" exemptions of the act.

The committee recognizes that there have been past instances of reluctance on the part of agencies to provide information requested by another agency in order to carry out a computer matching program to reduce fraud or unauthorized payments in Federal programs. The committee believes, however, that generally the exemptions of the Privacy Act have more often been used by agencies to frustrate the intended protections of the act. Any delay experienced in giving access to sensitive materials may help bring together views on the wisdom of proposed transfers of information and the protections to be accorded to them. The committee believes that some matching programs can be useful devices to identify possible cases of fraud. However, such programs carry with them the potential for serious violation of individual privacy unless they are carried out openly and with scrupulous care along clearly defined guidelines.

Under section 6 of the Privacy Act, OMB has authority to develop guidelines and regulations for the use of agencies in implementing the Privacy Act. OMB has published regulations in the Federal Register dealing with matching programs which are currently available for comment. (Federal Register, vol. 43, No. 151, Aug. 4, 1978, pp. 34724–34727). These regulations would permit matching programs to occur

if, among other things, the agency determines that disclosure of particular records is in accordance with the "routine use" provision; gives detailed notice of the match in the Federal Register; reports to Congress and OMB on all new systems of records; and destroys within 180 days all records not specifically needed to continue a pending investigation or required to be preserved under another statute. Both the agency requesting information and the agency responding, in consultation, would have to conclude that the disclosure involved is necessary to conduct the match; that other means of accomplishing the purpose are significantly less effective and efficient; and that the overall financial benefit to the government is demonstrable and outweighs the potential for harm.

The committee generally supports this approach as a useful balancing of the competing values. Matching programs will occur, but only in conformity with the protections contemplated by the Privacy Act. Public notice is essential; such a requirement effectively deters any transfers of records which cannot withstand close examination.

Even if the committee believed that the Privacy Act hampered the carrying out of matching programs, the House language would still be troublesome. Matching programs constitute a very small part of the Inspector and Auditor General's work, but the exemption sought for these few cases would be a substantial loophole. If problems do arise, the committee believes that the preferable course would be to hold oversight hearings on the Privacy Act and carefully consider any amendments in that context.

3. DEPARTMENTS AND AGENCIES COVERED

H.R. 8588 as passed by the House established Offices of Inspector General in 12 executive departments and agencies. The departments and agencies employ over 600,000 people and spend over $100 billion annually. They are also the departments and agencies with particular responsibility for administering most of the federally funded programs which have been major targets of fraud, abuse and waste.

Reviewing the list of departments and agencies included by the House, the committee found four conspicuous omissions: the Departments of Justice, Treasury, State, and Defense.

a. Exclusion of Justice and Treasury Departments

The committee readily agreed with the House decision not to establish Inspectors General in Justice and Treasury. Although the Justice Department does have responsibility for the Law Enforcement Assistance Administration (LEAA) and the Treasury Department supervises distribution of revenue sharing funds, the two departments do not have major programmatic responsibilities. Law enforcement is the principal mission of both departments. The committee recognizes that both departments could probably benefit from more rigorous internal auditing. For example, a GAO report dated June 6, 1978 lists LEAA among the Federal agencies where internal auditing has been deficient. However, the committee believes it would be undesirable to superimpose an Inspector General, who is basically a law enforcement official, on law enforcement agencies.

b. Consideration of the Department of State

Whether to include the Department of State posed a somewhat closer question. The Department has jurisdiction over the broad range of foreign assistance programs, including programs administered by the Agency for International Development (AID); the Military Assistance Programs (MAP) including foreign military arm sales; Peace Corps activities in ACTION; the activities of the Overseas Private Investment Corporation (OPIC) and the Inter-American Foundation; and the administration of the Agricultural Trade Development and Assistance Act of 1954, commonly known as Public Law 480. Because these programs have not always been trouble-free, Senator Eagleton's Subcommittee did explore State's approach to audit and investigative work and the resources committed to these tasks.

The current arrangements at State present reasons for concern. The Inspector General, Foreign Service, does not perform the kind of auditing and investigation that H.R. 8588 envisions. Rather, this Inspector General performs a traditional function, which is heavily oriented toward an evaluation and grading Foreign Service Officers with little emphasis on the financial management aspects of these operations. Additionally, the post of Inspector General, Foreign Service tends to rotate every 2 years. This procedure may discourage a tendency to look critially at embassy or consular operations. At any given time, the current Inspector General knows that he may be evaluated in the future by a person whom he criticizes. Then, too, the reports of the Inspector General have traditionally been intended solely for the internal use of the State Department and the agencies which the Inspector General determines to have a need for them. Consequently, they do not represent the kind of useful information for Congress and the public that H.R. 8588 requires.

It is also possible that certain programs and operations of the State Department may not receive adequate audit and investigative coverage because Congress recently abolished the Inspector General for Foreign Assistance (IGA). Established by Congress in 1961, IGA was responsible to the Secretary of State for reviewing, inspecting and auditing the whole spectrum of foreign assistance programs. Congress' decision to abolish IGA reflected the fact that its operations were seriously and consistently flawed. However, the question remains whether an office with broad responsibility for auditing and investigating all foreign assistance programs would not provide a useful function, the potential for which is lost in the current structure. For example, it is not clear who in the State Department will take responsibility for auditing and investigating the Department's jurisdiction over military assistance programs, including foreign military arms sales.

Despite these concerns, the committee believes that it would be unwise to recommend the creation of an Inspector and Auditor General for the State Department at this time. Congress abolished IGA only last year, effective July 1, 1978. Additionally the committee notes that in S. 3074, the International Development Assistance Act of 1978, the Senate upgraded the operations of the AID Auditor General by giving that office a statutory basis. If the House agrees with S. 3074, the

Auditor General will be submitting an annual report to the Administrator of AID which shall be provided to Congress without alteration as part of the AID Administrator's Annual Report. S. 3074 would provide the AID Auditor General with some of the stability and independence envisioned in H.R. 8588. Given these recent developments, the committee believes it advisable to see whether the present structure for audit and investigation in the State Department can work successfully.

VI. Inclusion of the Department of Defense

Senator Eagleton's subcommittee reviewed carefully the question of whether to include the Defense Department in H.R. 8588. The subcommittee received testimony from Comptroller General Staats and other representatives of GAO, DOD General Counsel Deanne Siemer, and Deputy Assistant Attorney General John Keeney of the Justice Department's Criminal Division. The subcommittee also reviewed numerous past reports prepared by GAO and work done by Representative Brooks' subcommittee of the House Committee on Government Operations. On the basis of this investigation, Senator Eagleton recommended, and the committee concluded, that the Defense Department and the Congress would benefit from the creation of a statutory Inspector and Auditor General.

The committee recognizes that DOD and the armed services commit substantial resources to audit and investigative units. In the Office of the Secretary of Defense (OSD) there exist two major auditing units. The first is the Defense Audit Service (DAS). DAS was created by DOD directive in 1976 to operate under the direction, authority and control of the Secretary of Defense, reporting to him. The Director of DAS is a civilian appointed by the Secretary. DAS bears responsibility for handling (1) all internal audits of OSD; the Joint Chiefs of Staff; the unified, specified commands and the other agencies within the DOD (as opposed to the services); (2) the planning and performance of inter-service audits of all DOD components; (3) quick response audits on matters of special interest to the Secretary; (4) audits of security assistance programs at all levels of management and (5) planning and performance of such other audits as the Secretary may request. The Director of DAS serves as the Secretary's advisor on matters concerning audit activities of the Department. The present authorizing staffing level of DAS is 367.

Also within OSD is the Defense Contract Audit Agency (DCAA), established by Departmental directive in 1965. DCAA performs all necessary contract audit functions for the Defense Department and provides financial advisory service to all defense components responsible for procurement and contract administration. These services are provided in connection with negotiations, administration and settlement of contracts and subcontracts. They include evaluating the acceptability of costs proposed by the contractors and reviewing the efficiency and economy of contractor operations. When established, DCAA was placed under the authority and control of the Assistant Secretary of Defense (Comptroller). DCAA presently includes 3,400 employees, of whom 80 percent are auditors including 430 certified public accountants. This is the largest single auditing force in the Government with the exception of GAO.

The investigative unit of the Office of Secretary of Defense is the Defense Investigative Service (DIS), established by the Secretary effective January 1, 1972, to consolidate certain pre-existing investigative activities in the department. DIS provides DOD components with a single, centrally directed personnel security investigative service. DIS also provides criminal investigative and crime prevention support to the Defense Logistics Agency, the Department's supply arm. DIS conducts all personnel security investigations for DOD components, including investigating allegations of subversive affiliations, and such other investigations as the Secretary of Defense may direct. While DIS investigators sometimes work on procurement or other criminal fraud matters, DIS's main mission is plainly the conduct of personal security investigations. DIS currently includes approximately 950 investigators.

In addition to the audit and investigative resources at the OSD level, each of the uniformed services has a substantial audit and investigative unit, as well as the traditional military inspection operation. For example, in the Department of the Army, there is an Army Audit Service, an Army Criminal Investigation Command, and an Inspector General. Both the Navy and the Air Force have their own similar structure. The resources of the services are substantial. Together, for example, the three services total 2,500 auditors and investigators.

Despite these resources, the committee has concluded that the same organizational flaws which justify the creation of Offices of Inspector and Auditor General elsewhere necessitate the establishment of such an office in the Department of Defense. Indeed, the very size and structure of the Defense Department, and the management problems involved in its administration, magnify this need.

Accordingly, the committee recommends the creation of an Inspector and Auditor General at the OSD level, consolidating the resources of the Defense Audit Service, portions of Defense Investigative Service, and the existing office of Inspector General in the Defense Logistics Agency.

The committee's recommendation would leave the audit, investigation and inspection functions of the services essentially intact. The services have been traditionally accorded substantial autonomy, and the service secretaries need to have audit and investigative resources at their disposal.

The committee believes, first, that the public record contains countless examples of serious waste and mismanagement in the Department of Defense. For example:

In 1965, a commission on Government procurement said that "inadequate training of procurement personnel has frequently been the basic cause of procurement deficiencies." In response to that report, DOD set up a training program for its procurement officers. Ten years later GAO reported that only 20 percent of the Pentagon's 14,000 employees who run the huge procurement system have gone through the program. These men and women award contracts worth $40 billion every year.

A recent analysis done for the Navy by International Maritime Associates traced the cost history of the AOR–7, a Navy replenishment oiler, and concluded that the Navy had systematically

shaved $14 million off the cost estimate before submitting it to Congress.

A 1976 GAO report indicated that the services were paying enlisted men to live off-base at Government expense even when there was substantial unused housing space on-base. GAO studied 11 bases and estimated that the waste at those installations came to $3.4 million a year. Worldwide, it was not unreasonable to assume that the cost could exceed $50 million.

A GAO report released by Representative Les Aspin indicated the Navy planned to spend $2 billion on an "improved engine" that would have made its F–14 fighter less, rather than more, useful. Fortunately this project was killed by the Deputy Secretary of Defense.

In November 1977, Senator Proxmire awarded the "Golden Fleece of the Month" to the Pentagon civilian and military brass who cost the taxpayers $52.3 million by systematically misusing planes for low-priority missions, such as personal flights, when available commercial transportation was many times cheaper.

Most recently, in its July 24 issue, Business Week magazine reported that Defense Department bookkeeping with respect to foreign military arms sales totaling $30 billion was hopelessly "fouled up." Clifford Miller, the Defense Department's Deputy Comptroller for Plans and Systems, the man charged with straightening out the situation, admitted that it would probably take 5 years before it could be sorted out.

A number of these examples were uncovered by DOD auditors. But several specific organizational failings in DOD's audit and investigative operations prompt the committee to conclude that covering the Department in H.R. 8588 would be beneficial. To a large extent, these deficiencies closely parallel those found in the other agencies covered by H.R. 8588.

1. PLACEMENT OF AUDIT IN DOD

The directive establishing DAS required that the new agency report to the Secretary of Defense. However, in a recent revision of that directive, Secretary Brown has ordered DAS to report to the Assistant Secretary of Defense (Comptroller).

Because of this change, the committee finds the current situation of DAS unacceptable. The Assistant Secretary of Defense (Comptroller) has operational responsibilities for programs and preparation of the budget, crucial areas which DAS should be auditing and investigating. The conflict of interest and the lack of independence is evident.

This is a serious flaw; it is also puzzling. On May 26, 1978, pursuant to the reorganization authority granted him by 10 USC section 125, Secretary Brown submitted a reorganization of the Naval and Air Force audit authorities. In that reorganization, responsibility for auditing in the Navy and the Air Force was shifted from the Comptroller of such service to the Service Secretary. Secretary Brown noted the reorganization was "designed to improve the organization independence and increase the operational efficiency of the Navy and Air Force audit functions." This same principle should control the audit functions in OSD.

2. INSUFFICIENT COOPERATION BETWEEN DAS AND DCAA

The committee believes that DCAA performs certain functions which make it inappropriate at present to consolidate it with DAS and DIS. For instance, substantial resources of DCAA are committed to pre-audit work undertaken for the contracting officer. In this function, a DCAA auditor will evaluate a contractor's proposal for accuracy and reasonableness and furnish this information to the contracting officer who can incorporate it into his efforts. This is really an operational responsibility, rather than an audit.

Nevertheless, DCAA does have significant auditing responsibilities, and in the past there has been no systematic cooperation between DCAA and DAS. For example, if DCAA discovers that a contractor is pursuing a course of action which amounts to fraud against DOD, DCAA will share that information with the contracting officer but ordinarily no contact is made with DAS which has the primary responsibility for internal audit of the Department of Defense.

3. LACK OF ACCESS TO CRUCIAL INFORMATION

In the services' view, the Inspector General of each service is the "confidential agent of the Commander assigned to the immediate staff and responsible directly to him. The Inspector serves as the Commander's own mechanism for self-analysis and self-criticism." Inspector General reports are derived, the military argues, from inquiries conducted under the concept of confidentiality. Without such confidentiality, candor would be tempered. For these reasons the military has made Inspection reports available only with the explicit permission of the Secretary of the service involved.

Traditionally, Inspectors General focused their attention on matters of military discipline and morale and the general readiness of personnel, bases, and weapons. In recent years, however, the Inspectors General have expanded their actions and come into frequent conflict with the auditors of the services and GAO. The Comptroller General has described the problem this way:

> This denial of access prevents information contained in Inspector General reports from being used beneficially by top management in the Defense Department and by the Congress. It also hampers our ability to carry out our responsibilities to the Congress and may even force us to waste time and resources by making similar reviews when the information we seek is already available in the inspection reports. . . . For the most part, inspection reports, at least in the Air Force, deal with functional management, system acquisition management and inspections that are geared to determine economy, efficiency and effectiveness of programs and activities—the same thing that auditors look for in their reviews. But because of the confidential treatment given Inspector General reports, any significant problems discovered by these inspections are not reported to our office, or the Congress, and *may not even be reported to the Defense Department.*" [Emphasis added.]

Deanne Siemer, General Counsel of the Defense Department, testified that the dispute between GAO and the services over inspection reports was a longstanding bureaucratic feud. Ms. Siemer argued that the GAO received everything necessary for them to do an effective job, and was denied access only to the opinions and conclusions of the Inspector General. The committee has not attempted to resolve the dispute by seeking to review individual reports at issue. Nevertheless, it should be emphasized that the GAO is not alone in its concern. The directive which established the DAS grants to the Director of DAS authority "to obtain such information from any DOD components as may be necessary in the performance of DAS functions. The sensitivity of any activity should not act as a bar to the prompt and effective conclusion of any audit evaluation." Despite this directive, both the Navy and Air Force have denied the DAS access to Inspector General reports, offering in lieu thereof statements of fact designed to summarize certain aspects of these reports. Like the GAO, the DAS has found these summaries unsatisfactory.

4. DEFICIENCIES OF THE SERVICE AUDIT AGENCIES

The conflict between auditors and Inspector General impacts on DOD in other ways. According to GAO, the caliber of the personnel in the service audit agencies is extremely high. Too often, however, the service audit agencies have been subordinated to the Inspectors General of the services.

For instance, a GAO report of July 26, 1977, notes that in 1975 the Army Inspector General announced a decision to channel the Army audit agency out of tactical activities and to have it concentrate its work on supply, maintenance, administrative, and financial functions. The stated reason for this decision was that tactical activities are more appropriately assessed by inspectors, military personnel, then by auditors, who are usually civilians. GAO argues, in contrast, that "the greater objectivity resulting from an auditor's lack of military background should be viewed as an asset in making independent, unbiased evaluation of tactical activities, particularly when it is considered that they have evaluated these activities for many years and have demonstrated that they are well qualified by virtue of professional audit training and experience to make such evaluations."[4] The GAO report notes several cases in which proposed audits were cancelled or stopped in progress because the Inspector General determined that they were better handled by inspection.

The committee shares the concern expressed by GAO:[5]

> A serious impediment of audit independence has resulted from the Inspector General's policy of restricting internal audits to non-tactical activities. The Army's basic mission, simply stated, is to prepare and maintain land forces in a state of combat readiness. Thus, excluding the Army Audit Agency from examining tactical activities means that the Audit Agency is prevented from auditing any of the activities

[4] Report to the Congress by the Comptroller General, "Why the Army Should Strengthen Its Internal Audit Function," July 26, 1977, p. 9.
[5] *Id.* at 14.

directly related to the Army's basic mission to which the Army devotes most of its resources.

The assumption that inspections can be substituted is, in our view, not supportable because inspections lack the depth of audits and therefore do not satisfy our standards for full-scope audit coverage.

The problem, of course, is intensified by the fact that inspection reports are, in significant measure, kept confidential.

Moreover, both the Army and the Air Force have, in the recent past, used priority committees designed to screen audits proposed by the service audit agencies. In the Army, the priority committee consisted of general officers from Army staff agencies having management responsibility for major functional areas of the Army operations, such as logistics, personnel, financial management and research and development: in other words, the key officers whose programs would be audited. The priority committee has limited audits in two ways: one, by rejecting the proposed audits outright, and two, by giving high priority audits a low priority which has resulted in their nonperformance. The lack of auditing independence resulting from this type of arrangement is unmistakable.

Despite these problems, the committee has not recommended that any organizational changes be made in the services' audit and inspection functions. But the deficiencies which exist intensify the committee's belief that the Secretary of Defense, and Congress, need a strong and independent auditing and investigative capability at the OSD level.

It should be noted, in response to this series of critical 1977 GAO reports, the services have pledged to upgrade the placement of auditing in the service and to remove all restrictions on the functioning of the service audit agencies. It is too early to tell whether these laudable objectives will be obtained, although GAO testimony indicated that the Army had made important progress. However, Representative Brooks' repeated efforts to "civilianize" the top levels of the service audit agencies have been staunchly resisted, particularly by the Air Force.

5. LACK OF COOPERATION WITH THE JUSTICE DEPARTMENT

Testimony indicates that DOD has not worked very effectively with the Department of Justice to investigate and prosecute criminal fraud in its programs.

Areas of fraud encountered with regularity in the Defense Department include procurement programs, PX and commissary operations, military payrolls, procurement of military weapons systems, and procurement by the services and DOD executive agencies. Both in terms of numbers and quality, the Department has extraordinary investigative resources at its disposal.

However, the Justice Department notes several problems which have impaired the crime fighting effort. DOD, like all other Federal agencies, is required to refer to the Department of Justice all suspected violations of criminal law. However, unlike many other agencies, DOD has extensive review procedures to determine if allegations

have any substance. Matters are often reviewed by the services and their lawyers and by DOD officials. Only after this time-consuming process are substantial allegations referred to the FBI. Until quite recently, the FBI would then assume responsibility for the investigation without substantial assistance from DOD investigators and auditors. Additionally, the Justice Department notes:

> DOD auditors often uncover substantial fraud allegations but are thereafter underutilized by the investigative agencies. This results in a morale problem on the part of the auditors on whom they rely to be the Government's eyes and ears to detect fraud.

Finally, although there are substantial similarities between the types of criminal fraud committed against each service, there has been inadequate coordination between the investigative agencies to deal with these cases.

The concerns expressed in the Justice Department letter paralleled those spelled out by Deputy Attorney General Benjamin Civiletti in a speech to the Air Force Office of Special Investigations on November 28, 1977. Additionally, in that speech, Mr. Civiletti called for the "elimination of unwarranted influence . . . exercised by the program commander(s) over investigations."

6. DEFENSE DEPARTMENT ARGUMENTS AGAINST INCLUSION

Arguing against inclusion, the Defense Department contends that the military organizations are fundamentally different from the civilian agencies, H.R. 8588 was designed to assist and that the Inspector and Auditor General concept and structure in the bill is inappropriate to DOD's situation.

The committee recognizes that military organizations are unique and that the Armed Services have been traditionally granted somewhat autonomous status. For these reasons, the committee has not included the audit, investigation and inspection operations of the Armed Services in this bill, except to require they provide assistance to the Inspector and Auditor General upon request.

However, there is presently operating at the OSD level a Defense Audit Service and a Defense Investigative Service, both of which have Department-wide responsibilities which cut across the lines of the individual Services. The Director of DAS is a civilian; yet he presumably performs an important function in DOD and has the understanding needed to deal with the concerns of the uniformed services. In a sense, H.R. 8588 changes nothing in existing Defense Department structure. The Inspector and Auditor General of the Defense Department would be focusing on the same areas that DAS does, but that person would have a structure and independence within the Department that the director of DAS lacks.

There are many differences between DOD and the civilian agencies covered by H.R. 8588, but there are also important similarities. The Defense Logistics Agency, for instance, is the supply arm of DOD, performing a function analogous to what GSA does for the rest of the Government. Since the potential for fraud and waste is obvious, the committee has recommended consolidation of the 90-person

Office of Inspector General at Defense Logistics into the proposed new Office of Inspector and Auditor General. The committee believes that where DOD faces problems similar to these found in civilian agencies, the organizational structure recommended in H.R. 8588 will be similarly useful.

The Defense Department also argues that the internal reorganization of audit and investigative functions undertaken in the past year meets the problems that motivate H.R. 8588. The committee wishes to emphasize that including the Defense Department in this bill does not imply any criticism of the current management of the Pentagon by Secretary Brown. However, this bill is premised on the belief that the internal audit and investigative operations of major executive agencies and departments have proven inadequate, and that agencies and departments will not, as a matter of course, police themselves in a satisfactory fashion. In this regard, the fact that DOD has conducted an internal reorganization carries no more weight than the fact that the Labor Department has also done so recently.

The committee is concerned, of course, that even the best internal reorganization of auditing and investigation may be nullified as quickly as it is established. This is the basic reason for putting reorganizations in statutory form. As Representative Fountain testified, the Department of Agriculture had a very effective administratively-created Inspector General for more than a decade, but the office was abolished in 1974 by former Agriculture Secretary Earl Butz. The committee cannot assume that effective administrative procedures, adopted internally, will remain in operation over the years.

Finally, while some of the features of the Defense Department's internal reorganizations have been impressive, other aspects are less reassuring. As of December 12, 1977, the Defense Investigative Service was placed under the direction, authority and control of the General Counsel. Ms. Siemer testified that the purpose of that move was to insure that DIS reported to a policy official who had no conflicting responsibilities in areas which DIS might have to investigate. This is a positive step. However, as noted above, DAS and DCAA are now reporting to the Assistant Secretary of Defense (Comptroller). These agencies should be reporting directly to the Secretary of Defense so they can be independent of the Comptroller and critical of his functions and operations where necessary. The same principle which prompted the shift of DIS under the General Counsel should apply in the auditing area as well. Additionally, GAO reports that throughout 1977, the staffing level of DAS was repeatedly reduced.

Ms. Siemer's testimony also placed great weight on the function of the Inspector General for Defense Intelligence, a position created in 1976 in the wake of disclosures by the Church Committee of abuses by the intelligence agencies. This individual plays a critical role in assuming responsibility for insuring that military intelligence operations are carried out in conformity with constitutional requirements. However, the role of the Inspector General for Defense Intelligence in policing fraud, waste and mismanagement is very limited, if it exists at all. The Defense Department is currently considering whether to give him some responsibility in the area of procurement of intelligence equipment. Additionally, because the Inspector General for

Defense Intelligence has a staff of only four or five professionals, his impact in Department-wide financial operations cannot be substantial.

Defense Department testimony also underscored the role played by the Defense Investigative Review Council. On this Council, the Under Secretaries of each of the military departments, the General Counsel of DOD, and the Inspector General for Defense Intelligence serve with responsibility for monitoring all Defense investigative programs and providing policy guidance, management review and inspection of investigative activities. The Council reports to the Secretary of Defense. The Department's testimony notes:

> The Defense Investigative Review Council is a unique organization designed to insure that each of the parts of the investigative structure lives up to high standards and to provide leadership with respect to the protection of Americans.

Like the Inspector General for Defense Intelligence, the Defense Investigative Review Council has a completely different focus than the Inspector and Auditor General which this legislation would establish. Additionally, there is evidently serious dispute within DOD about the value of the Defense Investigative Review Council. A memorandum supplied to the subcommittee by the General Counsel on another issue notes that high-ranking officials in DOD "believe that the Defense Investigative Review Counsel is no longer necessary" and that "the DIRC may be abolished."

Finally, of course, the Defense Department has an important and unique national security mission. It is certainly possible that an Inspector and Auditor General pursuing an audit or investigation looking into the economy, efficiency and effectiveness of a DOD program would come across information critical to the national security, whether it pertained to troop readiness or the operational effectiveness of a missile system. However, the committee has recognized the special nature of the Department's mission by providing in section 8(c) for special authority for the Secretary of Defense to review an Inspector and Auditor General's report to Congress and make deletions which he believes necessary in the interest of national security. Obviously, within the Department, the Inspector and Auditor General will have access to all matters and information available to the Department. In this regard, however, this individual would not be unusual, having no more or less access to information, in theory, than the current head of the Defense Audit Service.

In sum, the committee believes that the creation of a statutory Inspector and Auditor General in the Department of Defense is a modest but important step. Such an individual would contribute to a badly needed upgrading and consolidation of the audit and investigative functions in the Department. The Inspector and Auditor General would compensate in some measure for the lack of independent and reliable auditing which now occurs in the Armed Services. He or she could become a vital source of important information to the Secretary of Defense which might otherwise be lost. Congress, too, would benefit from the audit and investigative work by receiving a far more detailed picture of the extent and pattern of waste, fraud and mismanagement in Defense Department expenditures and operations.

VII. Section by Section Analysis

SECTION 1. SHORT TITLE

Section 1 provides a short title—the "Inspector and Auditor General Act of 1978."

SECTION 2. PURPOSE; ESTABLISHMENT

Section 2 establishes Offices of Inspector and Auditor General in 13 Federal departments and agencies and states the basic purpose of the legislation as the creation of independent and objective units to—

(1) Conduct and supervise audits and investigations relative to the programs and operations of these departments and agencies;

(2) Provide leadership and coordination and recommend policies for activities designed to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect fraud and abuse in, such programs and operations; and

(3) provide a means for keeping the department and agency heads and the Congress fully informed about problems and deficiencies relative to the administration of such programs and operations and the necessity for, and progress of, corrective action.

The Federal departments and agencies covered are the Departments of Agriculture; Commerce; Defense; Housing and Urban Development; Interior; Labor and Transportation; the Community Services Administration; the Environmental Protection Agency; the General Services Administration; the National Aeronautics and Space Administration; the Small Business Administration and the Veterans' Administration.

H.R. 8588, as passed by the House of Representatives, provided for an Inspector General for 12 departments and agencies. This committee, responding to concerns expressed by the Comptroller General of the United States that investigative functions would overshadow the audit functions, amended the title of the new offices to "Inspector and Auditor General." In addition, the committee added the Department of Defense as a thirteenth agency.

SECTION 3. APPOINTMENT AND REMOVAL OF OFFICERS

Subsection (a) provides (1) for the appointment of each Inspector and Auditor General by the President, subject to Senate confirmation and (2) that each such person be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration or investigation.

In requiring demonstrated ability in one of the specified fields, the committee intends to safeguard against the appointment of an Inspector and Auditor General that is motivated by any considerations other than merit. The fields in which an Inspector and Auditor General can be expert are sufficiently diverse that many qualified people could be appointed; however, expertise in some area relevant to the tasks would be necessary.

In the remainder of this subsection, the committee sets forth the basic principles governing the relationship of the Inspector and Auditor General to the head of the agency. While the Inspector and Auditor General must report to and be under general supervision of the head of the establishment, the agency head cannot prevent or prohibit the Inspector and Auditor General from initiating, carrying out or completing any audit or investigation or from issuing subpoenas which the Inspector and Auditor General deems necessary during the course of an audit or investigation.

Generally, the committee envisions that if the agency head asked the Inspector and Auditor General to perform an audit or an investigation or to look at certain areas of agency operations during a certain year, the Inspector and Auditor General should do so, assuming staff resources were adequate. However, the Inspector and Auditor General's authority to initiate whatever audits and investigations he deems necessary or appropriate cannot be compromised. If the head of the establishment asked the Inspector and Auditor General not to undertake a certain audit or investigation or to discontinue a certain audit or investigation, the Inspector and Auditor General would have the authority to refuse the request and to carry out his work. Obviously, if an Inspector and Auditor General believed that an agency head was inundating him with requests in certain agencies in order to divert him from looking at others, this would be the type of concern which should be shared with Congress.

Subsection (b) authorizes removal of an Inspector and Auditor General by the President, and requires the President to communicate the reasons for such removal to both Houses of Congress.

The committee is aware of the Justice Department's objections to this requirement. Based on *Myers* v. *United States*, 272 U.S. 52 (1926) the Justice Department argues that generally Congress may not place limitations on the Executive's unfettered discretion to remove an executive official. However, the committee believes that unlike a provision which permitted the President to remove an official only for cause, requiring communication by the President to Congress, after the fact of removal, does not impair the President's right to remove an executive official.

But even if the requirement does place some constraint on the President's removal power, the committee believes the requirement is justified and permissible.

Cases subsequent to *Myers* have made it clear that limitations on the removal power are permissible with respect to those offices whose duties require a degree of independence from the Executive. *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935); *Wiener* v. *United States*, 357 U.S. 349 (1958). The committee intends for the Inspector and Auditor General to have that measure of independence. While the committee has not required the President to have "cause" before removing an Inspector and Auditor General, the committee expects that there would be some justification—other than the desire to remove an Inspector and Auditor General who is performing his duties in a way which embarrasses the executive—to warrant the removal action. The Justice Department has recognized in earlier legislation that "extraordinary circumstances" relating to the unique func-

tion of a particular official within the executive branch would "justify restrictions placed on the executive's power of removal." (See testimony of John Harmon, Assistant Attorney General, Office of Legal Counsel, on S. 555; Hearings before the Committee on Governmental Affairs, U.S. Senate, 95th Cong., 1st sess., at 16 and 17.)

Subsection (c) makes clear that each Inspector and Auditor General is subject to the Hatch Act and may not engage in partisan politics.

SECTION 4. DUTIES AND RESPONSIBILITIES

Section 4 sets forth the duties and responsibilities of the Inspector and Auditor General.

Subsection (a)(1) sets forth the basic requirement that each Inspector and Auditor General shall provide policy direction and conduct, supervise or coordinate audits and investigations relating to the programs and operations of his establishment.

Subsection (a)(2) requires each Inspector and Auditor General to review existing and proposed legislation and regulations relating to his agency's programs and operations, and to make recommendations to his agency head and the Congress concerning the impact of such legislation and regulations on the economy and efficiency in the administration of programs and operations administered or financed by such agency, or the prevention and detection of fraud and abuse therein.

The committee has added this requirement to the House-passed legislation. Such a function is implicit in the broad mandate of the Inspector and Auditor General envisioned by the House. However, the committee believes that this function is so important that it should be recognized explicitly in the statute.

Subsection (a)(3) requires the Inspector and Auditor General to recommend policies for and to conduct, supervise or coordinate, activities carried out or financed by such agency for the purpose of promoting economy and efficiency and detecting fraud and abuse in its programs and operations.

Without such a provision, the legislation could be read to suggest the Inspector and Auditor General was simply responsible for coordinating and supervising audits and investigations. However, the committee intends that the Inspector and Auditor General will assume a leadership role in any and all activities which he deems useful in order to promote economy and efficiency in the administration of programs and operations or prevent and detect fraud, abuse and waste in such programs and operations.

The Inspector and Auditor General's focus is the way in which Federal tax dollars are spent by the agency, both in its internal operations and its federally-funded programs. Such a responsibility obviously encompasses countless issues. The Inspector and Auditor General should obviously be involved in identifying patterns and perpetrators of programmatic fraud, but allegations that an Assistant Secretary is making decisions which are influenced by a financial conflict of interest would also be a proper concern. The Inspector and Auditor General would also be properly concerned if an audit or investigation turned up indications that agency supervisors or employees were incompetent. The integrity and quality of agency decisionmaking are

inextricably intertwined with the economy, efficiency and effectiveness of agency programs and operations.

Broad as it is, the Inspector and Auditor General's mandate is not unlimited. Issues requiring substantive or technical expertise will often fall outside his proper sphere. For instance, if the Inspector and Auditor General at the Environmental Protection Agency received a report that a new type of sewage treatment system in Milwaukee was not functioning according to specifications, resulting in dangerous levels of pollution, the Inspector and Auditor General could quite properly decide that responsibility for handling the issue rested elsewhere and make the proper referral. However, if the Inspector and Auditor General received allegations that EPA had approved plans for a faulty sewage treatment system because an agency official was improperly influenced in his decision, the Inspector and Auditor General's basis for involvement would be clear.

Subsection (a)(4) requires each Inspector and Auditor General to recommend policies for, and to conduct, supervise, or coordinate relationships between such agency and other Federal, State, or local governmental agencies and nongovernmental entities, relative to the promotion of economy and efficiency, or the prevention and detection of fraud and abuse in his agency's programs and operations or the identification and prosecution of participants in such fraud or abuse.

Many of the federally-funded programs are administered primarily by the States and localities. Often in the past, the States and localities have not been as concerned about economy and efficiency in federally funded programs as they would be in their own programs. A concerted effort to promote economy and efficiency will inevitably involve important participation by state and local officials. The Justice Department has testified that Federal investigative and prosecutorial resources are simply insufficient to investigate and prosecute fraud in Federal-state programs, and state participation is obviously essential in this area. The committee envisions that the Inspector and Auditor General will provide a focal point for coordination of these collaborative efforts.

Subsection (a)(5) requires each Inspector and Auditor General to keep his agency head and the Congress fully and currently informed by means of required reports and otherwise relative to fraud and other serious problems, abuses and deficiencies with respect to the administration of his agency's programs and operations, and to recommend corrective action and report progress in implementing such corrective action.

By using the words "and otherwise" the committee makes clear its intention that Congress is not limited to the information conveyed in the semiannual reports of the Inspector and Auditor General. The relevant committees and subcommittees of Congress will undoubtedly be calling the Inspector and Auditor General to testify about the issues within his domain.

Subsection (b) describes the scope of audits to be performed by each Inspector and Auditor General in exercising the audit responsibilities set forth in subsection 4(a). Audits are to include three basic areas of inquiry: (1) examinations of financial transactions, accounts, and reports and reviews of compliance with applicable laws and regu-

lations, (2) reviews of efficiency and economy to determine whether the audited entity is giving due consideration to economical and efficient management, utilization, and conservation of its resources and to minimum expenditure of effort, and (3) reviews of program results to determine whether programs or activities meet the objectives established by Congress or the establishment. The subsection then details the factors to be considered by the Inspector and Auditor General in each of the three cases.

The scope of audit required by subsection (b) is based on the findings and extensive audit experience of GAO as expressed in its publication, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions." The language in this subsection follows very closely the language in the GAO publication because it is well accepted and understood by the audit community. Paragraph (2)(G) was added at the suggestion of the Office of Management and Budget so that auditors will focus attention on achieving the most advantageous use of cash resources.

In referring to the "audit function," the committee recognizes that efficient scheduling and use of resources may result in specific, individual audits which do not encompass all of the items described in subsection (b). Audits limited to one or more of the listed items would not violate the requirements of subsection (b) as long as they were conducted as part of a full-scope audit process that would be completed at the end of a reasonable audit cycle.

Subsection (c) requires each Inspector and Auditor General to follow appropriate standards and assure that non-Federal auditors adhere to such standards when carrying out the responsibilities specified in subsection (a)(1).

Subsection (c)(1) requires compliance with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions. Although the language in this paragraph closely parallels the title of the present GAO publication on audit standards, the committee did not expressly refer to any particular publication. The committee intends that paragraph (1) will encompass all existing standards established by the Comptroller General, as well as any subsequent revisions or additions to those standards.

Subsection (c)(2) requires each Inspector and Auditor General to establish guidelines for determining when it shall be appropriate to use non-Federal auditors for auditing programs, activities, or functions administered by his establishment. The committee uses the term "non-Federal auditors" to refer to auditors employed by State or local governments, public accounting firms, or any other qualified auditors who are not Federal employees.

Subsection (c)(3) requires each Inspector and Auditor General to take appropriate steps to assure that any work performed by non-Federal auditors under the guidelines described in paragraph (2) shall comply with appropriate standards established by the Comptroller General. The committee intends that affirmative steps be taken to check the work of non-Federal auditors in order to assure that it meets appropriate standards. The term "non-Federal auditors" is used in the same manner as in paragraph (2).

Subsection (d) requires each Inspector and Auditor General to give particular attention to activities of the Comptroller General so as to avoid duplication and insure effective coordination and cooperation.

Subsection (e) requires each Inspector and Auditor General to report expeditiously to the Attorney General whenever he has reasonable grounds to believe there has been a violation of Federal law.

By including this requirement, the committee intends that the Inspector and Auditor General will make prompt and direct referrals to the Justice Department when he has reasonable grounds to believe there has been a violation of Federal criminal law. The Justice Department has testified that the referral process from the agencies to the Department in the past has been slower and more cumbersome than necessary. Under this legislation, the Inspector and Auditor General would be required to contact the Justice Department directly, without clearing the referrals with the agency head, the General Counsel of the agency or any other individual in the agency.

SECTION 5. REPORTS

Section 5 provides for semiannual and other reports to be made by Inspectors and Auditors General to agency heads and to the Congress.

Subsection (a) requires each Inspector and Auditor General to make semiannual reports summarizing the activities of the Office which (1) describe significant problems, abuses and deficiencies in agency operations and programs disclosed by the activities of the Office, (2) recommend corrective action with respect thereto, (3) identify significant recommendations described in previous semiannual reports on which corrective action has not been completed, (4) summarize matters referred to prosecutive authorities and convictions resulting therefrom, (5) summarize each report made to his agency head dealing with significant problems, abuses or deficiencies, and (6) list each audit report completed by the Office during the reporting period.

By using the word "summary" in subsection (a)(4), the committee intends that Congress would be given an overview of those matters which have been referred to prosecutive authorities. It would be sufficient, for instance, for an Inspector and Auditor General at HUD to include in his report the fact that he had referred 230 cases of fraud in FHA programs to the Justice Department for further investigation and prosecution. It would be highly improper and often a violation of due process for an Inspector and Auditor General's report to list the names of those under investigation or to describe them with sufficient precision to enable the identities of the targets to be easily ascertained. However, once prosecutions and convictions have resulted, the Inspector and Auditor General could certainly list those cases, if he deems such a listing appropriate.

Subsection (b) provides for the semiannual report of the Inspector and Auditor General to be transmitted by the agency head to the appropriate committee or subcommittees of Congress within 30 days after his receipt of the report. The agency head may, along with the semiannual report, submit a report containing any comments he deems appropriate.

The purpose of this section is to ensure that the Congress is promptly apprised of the Inspector and Auditor General's findings with respect

to economy and efficiency in the administration of agency programs and with respect to fraud and abuse in those programs. The Inspector and Auditor General is intended to perform a unique function. In conducting his audits and investigations and in making his reports and recommendations to the head of the agency, he acts in part as an executive official in aid of the agency head's duty to execute the laws enacted by the Congress.

However, in carrying out his mandate, the Inspector and Auditor General may also discover information which reflects adversely on high agency officials, including the agency head. For this reason, this provision contemplates that the Inspector and Auditor General's reports will ordinarily be transmitted to Congress by the agency head without alteration or deletion. This requirement is fundamental to the legislation; it provides the foundation of the Inspector and Auditor General's independence.

The committee intends to confer upon the Inspector and Auditor General a unique status within the executive branch. In the absence of specific legislation on the issue, the committee recognizes that the head of a department or agency has the right to screen all communications before transmittal from the agency to Congress or elsewhere. 5 U.S.C. § 301; *Touhy* v. *Ragen*, 340 U.S. 462 (1950). This is a corollary to the President's responsibilities for running the Executive Branch of the government.

However, it is clear that Congress can assign certain responsibilities to subordinate officials of government and require their performance. In *Kendall* v. *U.S. ex rel Stokes*, 37 U.S. 524 (1838), the Supreme Court wrote:

> The executive power is vested in the President, and as far as his powers are derived from the Constitution, he is beyond the reach of any other department . . . but it by no means follows that every officer in every branch of that department is under the exclusive direction of the President.
>
> [There are] certain political duties imposed upon many officers in the Executive Department the discharge of which is under the direction of the President, but it would be an alarming doctrine that Congress cannot impose upon any executive officer any duty they may think proper which is not repugnant to any right secured and protected by the Constitution; and in such cases, the duty and responsibility grow out of and are subject to control of the law and not to the direction of the President.[6]

Of course, nothing in this section authorizes or permits an Inspector and Auditor General to disregard the obligations of law which fall upon all citizens and with special force upon Government officials. The Justice Department has expressed concern that since an Inspector and Auditor General is to report on matters involving possible violations of criminal law, his report might contain information relating to the identity of informants, the privacy interest of people under investigations, or other matters which would impede law enforcement

[6] Kendall's continuing vitality has been underscored in recent decisions: *Jalil* v. *Hampton*, 460 F. 2d 923, 3d Cir. 1972; *Nixon* v. *Sirica*, 487 F. 2d 700 (D.C. Cir. 1974); Local 2677, *AFGE* v. *Phillips*, 358 F. Supp. 60 (D.C. Cir. 1973).

investigations. As noted above, the committee does not envision that a report by the Inspector and Auditor General would contain this degree of specificity. In any event, however, the intent of the legislation is that the Inspector and Auditor General in preparing his reports, must observe the requirements of law which exist today under common law, statutes, and the Constitution, with respect to law enforcement investigations. Similarly the Inspector and Auditor General must adhere to statutes such as 26 U.S.C. § 6013, dealing with tax returns, or Federal Rule of Criminal Procedure 6(e), dealing with grand jury information, which prohibit disclosure even to Congress. The inclusion of such information in an Inspector and Auditor General report could subject the Inspector and Auditor General to legal sanction.

The committee recognizes, however, that in rare circumstances the Inspector and Auditor General, through inadvertence or design, may include in his report materials of this sort which should not be disclosed even to the Congress. The inclusion of such materials in an Inspector and Auditor General's report may put a conscientious agency head in a serious bind. The obligation of an agency head is to help the President "faithfully execute the laws." Faithful execution of this legislation entails the timely transmittal, without alteration or deletion, of an Inspector General's report to Congress. However, a conflict of responsibilities may arise when the agency head concludes that the Inspector and Auditor General's report contains material, disclosure of which is improper under the law. In this kind of rare case, section 5(b) is not intended to prohibit the agency head from deleting the materials in question.

In addition, the committee is aware that the Supreme Court has, in certain contexts, recognized the President's constitutional privilege for confidential communications or for information related to the national security, diplomatic affairs, and military secrets (*Nixon* v. *General Services Administration*, 433 U.S. 425, (1977); *United States* v. *Nixon*, 418 U.S. 683 (1974)). Insofar as this privilege is constitutionally based, the committee recognizes that subsection 5(b) cannot override it. In view of the uncertain nature of the law in this area, the committee intends that subsection 5(b) will neither accept nor reject any particular view of Presidential privilege but only preserve for the President the opportunity to assert privilege where he deems it necessary. The committee intends that these questions should be left for resolution on a case-by-case basis as they arise in the course of implementing this legislation.

In the rare cases in which alterations or deletions have been made, the committee envisions that an agency head's comments on an Inspector and Auditor General's report would indicate to the Congress that alterations or deletions had been made, give a description of the materials altered or deleted, and the reasons therefore. In this manner, the appropriate subcommittees and committees could pursue the matter in whichever way would best serve the responsibilities of the Congress.

Subsection (c) requires each agency head to make copies of each Inspector and Auditor General's semiannual report available to the

public, at a reasonable cost, within 60 days of the transmission of such report.

Subsection (d) requires each Inspector and Auditor General to report immediately to the agency head whenever he becomes aware of particularly flagrant problems and abuses or deficiencies in agency programs and operations.

The agency head is required to transmit the report, within seven calendar days, to the appropriate committees or subcommittees of Congress, along with whatever comments the agency head wishes to append.

In this provision, the committee follows the approach taken in the earlier HEW and Energy Inspector General legislation. The provision obligates the Inspector and Auditor General to take steps which will result in the prompt notification of Congress if the Inspector and Auditor General becomes aware of particularly serious or flagrant problems, abuses or deficiencies relating to the administration of programs or operation of the department. The judgment of what constitutes a serious or flagrant problem is to be made by the Inspector and Auditor General, and not by the agency head.

In the earlier HEW and Energy legislation, the Inspector General was to give notice to the head of the establishment and then, within a certain period of time, notify the Congress. This legislation takes a different approach to the transmittal of reports generally and therefore, even when a serious or flagrant problem is involved, the committee requires that notification or a report would go first to the agency head and agency head would transmit the report to Congress within seven calendar days. Again, as in subsection (b), the agency head has no general authority or right to delete or alter certain provisions of the report.

SECTION 6. AUTHORITY; ADMINISTRATIVE PROVISIONS

Subsection (a) authorizes each Inspector and Auditor General (1) to have access to all records, reports, audits, documents, recommendations and other relevant materials available to his agency, relating to programs and operations for which his Office has responsibilities, (2) to make such investigations and reports relative to his agency's programs and operations as he deems necessary or desirable, (3) to request necessary information or assistance from Federal, State or local governmental agencies or units, (4) to subpena such materials as he deems necessary to carry out his duties and responsibilities and enforce such subpenas in the United States District Courts (subpenas may not be used to obtain information from other Federal agencies), (5) to have direct and prompt access to his agency head when necessary to carry out his responsibilities, (6) to select, appoint and employ necessary personnel, subject to civil service laws and regulations, (7) to employ experts and consultants and (8) to contract for audits, studies and other services necessary to carry out the provisions of the Act.

Access to all relevant documents available to the applicable establishment relating to programs and operations for which the Inspector and Auditor General has responsibilities is obviously crucial. The committee intends this subsection to be a broad mandate permitting

the Inspector and Auditor General the access he needs to do an effective job, subject, of course, to the provisions of other statutes, such as the Privacy Act. For example, in the case of the Defense Department, the Inspector and Auditor General would have access to the inspection reports of the various arms services, access which has been denied in the past to the Defense Audit Service.

The Inspector and Auditor General would also have access to confidential interagency memoranda. The fact that such memoranda might be exempt from disclosure to the public under the Freedom of Information Act is irrelevant.

Subpoena power is absolutely essential to the discharge of the Inspector and Auditor General's functions. There are literally thousands of institutions in the country which are somehow involved in the receipt of funds from Federal programs. Without the power necessary to conduct a comprehensive audit of these entities, the Inspector and Auditor General could have no serious impact on the way federal funds are expended. As noted in section 3, the agency head has no authority to interfere with the Inspector and Auditor General's decisions concerning subpenas.

The committee does not believe that the Inspector and Auditor General will have to resort very often to the use of subpoenas. There are substantial incentives for institutions that are involved with the Federal Government to comply with requests by an Inspector and Auditor General. In any case, however, knowing that the Inspector and Auditor General has recourse to subpoena power should encourage prompt and thorough cooperation with his audits and investigations.

The committee intends, of course, that the Inspector and Auditor General will use this subpena power in the performance of his statutory functions. The use of subpena power to obtain information for another agency component which does not have such power would clearly be improper.[7]

Paragraph (6) gives the Inspector and Auditor General the authority to employ those officers and employees necessary to carry out his functions. The committee believes that the Inspector and Auditor General should have broad authority to structure the operation of his office as he deems fit. The House-passed legislation required a presidentially appointed Deputy Inspector General in the five largest departments and mandated the appointment of an Assistant Inspector General for Auditing and an Assistant Inspector General for Investigations. The committee agrees with OMB on this point that it is unnecessary to have two Presidential appointments in the Office of Inspector and Auditor General and that an Inspector and Auditor General should be left free to determine whether he wants to separate the audit and investigation divisions of his office and place each under a separate assistant. In all likelihood, most Inspector and Auditors General will find such

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[7] The committee recognizes that there is a substantial ongoing dispute about the propriety of so-called third party subpoenas; i.e., subpoenaing records of an individual which are in the hands of an institution, such as a bank. Since *U.S.* v. *Miller*, 425 U.S. 435 (1976), individuals have been regarded as having no protectable right of property with respect to their bank records. A law enforcement agency can obtain such records from a bank without any showing of cause to a neutral magistrate or any notice to the individual involved.

The committee notes that progress has been made on legislation concerning financial privacy which would require notice to be given to an individual whose bank records are being obtained by a law enforcement agency.. Hopefully, this progress will lead to legislation of general applicability to all law enforcement authorities, including Inspector and Auditor Generals.

a division useful, but some may not. The authority for selecting a deputy or such assistants rests with the Inspector and Auditor General.

Paragraphs (6), (7) and (8), taken together, give the Inspector and Auditor General substantial autonomy in carrying out his operations, subject, of course, to the limits imposed by appropriations. The committee is aware that in most cases the authority to select and appoint officers and employees, obtain services from consultants and enter into outside contracts rests with the agency head and is delegated as appropriate to subordinate officials. However, because of the unique function of the Inspector and Auditor General and the possibility that such authority might be denied to him, in order to hamper his operations, the committee has given him explicit authority to carry out these functions.

Subsection (b) requires (1) Federal agencies to furnish information and assistance requested by Inspectors and Auditors General, insofar as is practicable and not in contravention of existing statutory restrictions, or regulations of such agencies, and (2) each Inspector and Auditor General to report the circumstances to his agency head without delay, whenever requested information or assistance is, in the judgment of such Inspector and Auditor General, unreasonably refused or not provided. The committee believes that such denials are extremely serious. A listing of any that occur must be included in the semiannual report.

Subsection (c) requires each agency head to furnish the Office of Inspector and Auditor General suitable office space and supporting services and equipment.

SECTION 7. EMPLOYEE COMPLAINTS

Subsection (a) gives the Inspector and Auditor General the authority to receive and investigate complaints from employees of the establishment concerning the possible existence of an activity constituting a violation of law, rules or regulations, mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

The committee has refrained from specifically requiring that an Inspector and Auditor General must investigate each and every employee complaint on these issues. The Inspector and Auditor General has an extremely broad mandate to carry out and must administer an office with literally hundreds of auditors and investigators. The Inspector and Auditor General should design systems intended to prevent fraud, waste and mismanagement rather than simply detect them after the fact. It is also difficult to anticipate the number of employee complaints which an Inspector and Auditor General will actually receive. For all of these reasons, the committee believes it unwise to tie the Inspector and Auditor General's hands with specific requirements to investigate employee complaints within a time certain.

Nonetheless, the committee believes that the Inspector and Auditor General should handle employee complaints seriously and systematically. Because of the employee's position within the agency, employee complaints carry with them a high likelihood of reliability. Because it is never easy to "blow the whistle" on one's supervisors or colleagues,

the situation may often be serious. Additionally, the committee believes that most employees would much prefer an effective channel inside the agency to pursue complaints rather than seeking recourse or publicity outside the agency. This preference should be encouraged.

For all these reasons, the employees of an establishment can be valuable sources of information about fraud, waste, and mismanagement within the agency. The agency and the taxpayers benefit if the Inspector and Auditor General creates a climate whereby agency employees know that their complaints will be taken seriously. Subsections (b) and (c), which mandate that the complaining employee's identity be kept confidential and that employees be protected from reprisal, can help create a positive atmosphere, but ultimately only the Inspector and Auditor General (and the agency head) can insure that significant employee complaints are acted upon.

The committee believes that the Inspector and Auditor General can take several steps to create this positive climate: establish procedures for the prompt review of employee complaints to weed out frivolous complaints; identify and refer properly to the agency head those complaints which are serious but fall outside the scope of the Inspector and Auditor General's mandate; and, perhaps most importantly, provide some form of continuing notification to the employee concerning the progress and disposition of the complaint.

In S. 2640, the Civil Service Reform Act of 1978, the committee demonstrated its concern for an effective internal channel for receiving and investigating employee complaints. In S. 2640, the committee provided that if an employee complaint is brought to the Special Counsel, the Special Counsel should, in addition to safeguarding the employee from prohibited personnel practices, refer the complaint to the agency head for investigation of the merits. Consequently, the Inspector and Auditor General may be receiving not only complaints coming directly from the employees but also those which come indirectly from the Special Counsel via the agency head. S. 2640 also requires the agency head (or his delegate, the Inspector and Auditor General) to provide to the Special Counsel a summary of his activities concerning complaints referred by the Special Counsel. The summary should be in as much detail as possible so that the Special Counsel can inform an employee about the disposition of his complaint.

Subsection (b) protects the complaining employee by providing that the Inspector and Auditor General may not disclose the complainant's identity unless the Inspector and Auditor General determines that such disclosure is unavoidable. This protection parallels the protection which the committee gave to employees who bring complaints to the Special Counsel (See S. 2640, section 1206(c)(1)). To paraphrase the committee's observations there:

> Protection of the complainant's identity is essential not only to prevent retaliation against the employee, but to assure a free flow of information to the (Inspector and Auditor General) . . . It is expected the disclosure of a complainant's identity will be necessary only in the rarest of circumstances. (S. Rept. 95–969, at 33)

Subsection (c) protects the career employee from reprisals by his supervisors for bringing a complaint to the Inspector and Auditor

General unless the complaint was made with knowledge that it was false or with willful disregard for its truth or falsity. The committee believes that the protections from reprisal for complaining employees who go to the Inspector and Auditor General must be close to absolute. The protections offered in this subsection are broader than those granted in S. 2640 which protects employees not only from bringing complaints internally but also from going public with them. For instance, while an employee under S. 2640 would be protected from reprisal if he went public with a charge of a "substantial and specific danger to the public health and safety" employees who came to the Inspector and Auditor General with a more generalized concern about the public health and safety would also be protected from reprisal.

SECTION 8. SPECIAL PROVISIONS FOR THE DEPARTMENT OF DEFENSE

Subsection (a) requires the head of any Department of Defense office, agency or organization which conducts audits and investigations and is not otherwise transferred to the Office of Inspector and Auditor General by this act, to provide, upon the request of such Inspector and Auditor General, any audit or investigative assistance which he determines to be necessary in carrying out his responsibilities.

This subsection enables the Inspector and Auditor General to request and get the assistance of the audit and investigative resources of the armed services, which are formidable. Because the traditionally autonomy of the audit and investigative branches of the services from the Office of Secretary of Defense, the committee does not believe there will be many requests for this assistance. The Inspector and Auditor General of the Defense Department will be working primarily with his own in-house resources. However, if the need for assistance from the armed services should become apparent to the Inspector and Auditor General, subsection (a) requires the cooperation of the services.

Subsection (b) exempts the audits and investigations conducted by or under the direction of the Inspector and Auditor General of the Department of Defense from the Posse Comitatus Act (18 U.S.C. 1385).

The Posse Comitatus Act, which became law after the Civil War, makes criminal the use of any part of the Army or Air Force as a posse comitatus to execute the laws. The statute also applies, by regulation, to the Navy and Marines. It was intended to prevent the use of soldiers or the military to enforce civil law. While it seems unlikely that this statute could have any impact on the use of military personnel to audit or investigate procurement fraud, the case law is ambiguous, and for that reason the committee has made it clear that the statute would not prohibit the use of military personnel to assist the Inspector and Auditor General in his auditing or investigating work. The committee envisions that once a matter has been referred to the Justice Department for investigation and prosecution, investigators employed by the Defense Investigative Service or by the armed services could cooperate with the Justice Department in preparing a case for prosecution. The expertise of these investigators in the complex areas of military procurement could well be vital.

Subsection (c) authorizes the Secretary of Defense to delete specific information from the semiannual reports of the Department of De-

fense Inspector and Auditor General, prior to transmittal to the Congress, if the Secretary determines that any such report contains specific information critical to the national security, and a disclosure of such information would jeopardize the national security. If the Secretary deletes any information from such reports, he must, within seven calendar days of submission to the Congress, provide the chairman and ranking minority members of the Senate and House Armed Services Committees with a general description of the nature of the information deleted.

Subsection (c) carves out an exception for the Defense Department from the general rule that semi-annual reports of the Inspector and Auditor General go to Congress without deletion or alteration by the agency head, and that the contents of these reports are public. While the committee anticipates that the bulk of a report by the Inspector and Audior General of DOD would not concern national security or classified matters, the committee recognizes that some of the issues which an Inspector and Auditor General might discuss would be sensitive security matters.

The authority to delete information the disclosure of which could be critical to the national security does not give the Secretary of Defense a broad mandate to make any and all deletions which he deems appropriate or desirable. A report concerning extensive cost overruns, or fraud in procurement of Defense Department materials, or high-level conflicts of interest in the Department might be embarrassing to DOD but would certainly not be the kind of material which could be deleted from a semi-annual report. At the same time, the committee believes that information concerning the combat readiness of troops or the effectiveness of a missile system would be vital to the national security. Such information may well come to light in the press or through subsequent congressional hearings. However, this process would take whatever course it presently does, with the information being brought out by enterprising reporters, concerned Members of Congress or executive branch officials. It would not be made public in the semiannual report of the Inspector and Auditor General.

Obviously, information of this sort must be brought to the attention of the relevant committees of Congress. The Secretary of Defense may delete information he deems critical to the national security from the semi-annual report, but the committee can conceive of no situation where the nature of the deleted material should not be communicated to the appropriate committee of Congress.

SECTION 9. TRANSFER OF FUNCTIONS

Subsection (a) transfers to each Office of Inspector and Auditor General in each of the 13 agencies covered, the existing audit and investigative units within that agency, and authorizes each agency head to transfer such additional units, functions, powers and duties to the new Office, which he determines are properly related to the functions of that Office, and which would further the purposes of the Act. In order to prevent compromising the independence and objectivity of the Offices of Inspector and Auditor General, transfer of program operating responsibilities is prohibited.

With respect to the Department of Defense, the committee recognizes there are no discrete units in the Defense Investigative Service (DIS) which handle procurement matters or other fraud investigations. Rather, DIS personnel simply handle whatever matters arise in the regional offices where they are stationed. The committee believes, however, that DOD can make an assessment of what percentage of DIS time is spent on the kind of investigations covered by the legislation and transfer the requisite personnel.

The Department of Transportation has expressed its opposition to the decision to consolidate the auditing and investigating units now found in the various modal administrations of DOT into the office of Inspector and Auditor General.

The committee recognizes that the various modes in DOT have unique independence growing directly from the Department of Transportation Act and the statutes creating the Federal Aviation Administration, Federal Highway Administration, and Urban Mass Transit Administration. However, the committee does not believe that the current arrangements—a proliferation of 116 audit and investigative units with audit units working for the program administrators whose programs they purport to audit—is a satisfactory arrangement. The committee believes that the effort to consolidate responsibility for auditing and investigation in an independent individual would be undermined if there was not one Inspector and Auditor General in the Transportation Department with overall accountability for all auditing and investigative work.

At the same time, the committee believes that the legislation permits the new Inspector and Auditor General substantial latitude in deploying his audit and investigative resources. If an Inspector and Auditor General believes that he should have separate units of audit for the different modes, he could do so, as long as the reporting obligations ran, not to the line officials, but to the Secretary of Transportation. While program administrators could not prohibit or prevent an Inspector and Auditor General from doing those audits and investigations which he deemed necessary, nothing would foreclose arrangements to expedite audits and investigations in areas where the program managers have particular concerns. Similarly, there is no requirement that all the audit or investigative resources must be stationed in Washington.

Subsection (b) transfers the personnel, assets, liabilities, contracts, records and unexpended balances of appropriations to the applicable Office of Inspector and Auditor General from the units transferred.

Subsections (c) and (d) provide protection for the personnel transferred to the new Offices from the units transferred against adverse effect, including reductions in grade. In addition, they provide for the lapsing of any unit within an agency all of the functions, powers and duties which have been transferred to the new Offices.

SECTION 10. CONFORMING AND TECHNICAL AMENDMENTS

Subsection (a) amends the Executive Schedule (5 U.S.C. 5315) by providing for the appointments at level IV ($50,000 per annum) of the Inspectors and Auditors General in the Departments of Agricul-

ture, Defense, Housing and Urban Development, Labor, Transportation and the Veterans Administration. The Inspector General of the Department of Health, Education, and Welfare, established by Public Law 94–505 at level IV, has been added as a conforming amendment.

Subsection (b) amends the Executive Schedule (5 U.S.C. 5316) by providing for the appointments at level V ($47,500 per annum) of the Inspectors and Auditors General of the Departments of Commerce and Interior, and the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration and the Small Business Administration. The Deputy Inspector General of the Department of Health, Education and Welfare, established by Public Law 94–505 at level V, has been added as a conforming amendment.

Subsection (c) is a technical amendment correcting a misnumbering of sections in Public Law 94–505 which established the offices of Inspector and Deputy Inspector General in the Department of Health, Education and Welfare.

SECTION 11. DEFINITIONS

Section 11 defines the terms used in H.R. 8588. The terms defined are: (1) "audit"; (2) "investigation"; (3) "head of the establishment"; (4) "establishment"; (5) "Inspector and Auditor General"; (6) "Office" and (7) "Federal agency."

SECTION 12. EFFECTIVE DATE

Section 12 provides an effective date of October 1, 1978.

VIII. Estimated Costs

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., July 28, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 8588, the Inspector and Auditor General Act of 1978.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

JULY 28, 1978.

1. Bill number: H.R. 8588.
2. Bill title: Inspector and Auditor General Act of 1978.
3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs, July 27, 1978.

4. Bill purpose: The purpose of this legislation is to establish an Office of Inspector and Auditor General within 13 agencies of the Government to more efficiently and economically conduct audits and investigations to prevent and detect fraud and abuse. Each office is to report to the head of the particular agency and the Congress identifying any significant problems, abuses and deficiencies detected, including recommendations for corrective action made by the Office and a description of progress made in the implementation of such actions.

5. Cost estimate:

Estimated costs:

Fiscal year:	*Millions*
1979	$2.0
1980	2.1
1981	2.2
1982	2.4
1983	2.5

Several of the agencies included in the bill have estimated that in order to carry out the provisions of this act, additional auditors and inspectors will be required. The cost of such additional staff is not included in this estimate. In addition, there may be savings and/or efficiencies as a result of the improved auditing and investigations capability stemming from this bill. These are also not included in this estimate.

6. Basis of estimate: The effective date of this legislation, as specified in section 12, is October 1, 1978. The estimated additional costs associated with this legislation are based on the assumption that each position being added to the executive schedule will be at the full salary—$50,000 each for the Level IV Inspector General and Inspector and Auditor General positions and $47,500 each for the Level V Inspector General, and Inspector and Auditor General, and Deputy Inspector General positions. In those agencies where there is only one office being transferred to the Inspector and Auditor General's office, the cost of an additional Assistant Inspector and Auditor General has been included, based on an annual salary of $47,500. Additionally, the salary of a secretary for each new position has been included in the estimate, along with 25 percent of the base salaries for benefits and overhead. To comply with the annual reporting requirements of this act, it has been estimated that, on average, an additional $20,000 will be spent each year by each agency. All costs have been inflated over the projection period.

7. Estimate comparison: None.

8. Previous CBO estimate: A previous cost estimate for H.R. 8588 was submitted to the House Committee on Government Operations on August 3, 1977, assuming an effective date of October 1, 1977. Another cost estimate was submitted to the same committee on March 9, 1978, for the bill ordered reported, which assumed an effective date of July 1, 1978. This estimate reflects an effective date of October 1, 1978, as specified in the bill.

9. Estimate prepared by: Kathy Weiss.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

IX. Rollcall Votes in Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, as amended, the rollcall votes taken during committee consideration of this legislation was as follows:

Final Passage: [8] Ordered Reported 9 yeas—0 nays

YEAS

Muskie
Eagleton
Chiles
Glenn
Sasser
Ribicoff
Percy
Danforth
Heinz
(Proxy)
Humphrey

X. Changes in Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

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[8] Committee rules provide that on "Final Passage" proxies may be allowed solely for the purpose of recording a member's position on the pending question.

(1) Administrator, Bureau of Security and Consular Affairs, Department of State.

* * * * * * *

(122) *Inspector General, Department of Health, Education, and Welfare.*

(123) *Inspector and Auditor General, Department of Agriculture.*

(124) *Inspector and Auditor General, Department of Housing and Urban Development.*

(125) *Inspector and Auditor General, Department of Labor.*

(126) *Inspector and Auditor General, Department of Transportation.*

(127) *Inspector and Auditor General, Veterans' Administration.*

(128) *Inspector and Auditor General, Department of Defense.*

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Administrator, Agricultural Marketing Services, Department of Agriculture.

* * * * * * *

(144) *Deputy Inspector General, Department of Health, Education, and Welfare.*

(145) *Inspector and Auditor General, Department of Commerce.*

(146) *Inspector and Auditor General, Department of the Interior.*

(147) *Inspector and Auditor General, Community Services Administration.*

(148) *Inspector and Auditor General, Environmental Protection Agency.*

(149) *Inspector and Auditor General, General Services Administration.*

(150) *Inspector and Auditor General, National Aeronautics and Space Administration.*

(151) *Inspector and Auditor General, Small Business Administration.*

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SECTION 8JB OF THE ACT OF OCTOBER 15, 1976 (42 U.S.C. 3522(e))

AN ACT To authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation

* * * * * * *

OFFICERS

SEC. 202. (a) * * *

* * * * *

(e) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section [6]*206*(a)(1), and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section [6] *206*(a)(2).

XI. Evaluation of Regulatory, Paperwork, and Privacy Impact

In general, enactment of H.R. 8588 will have no regulatory impact on the general public.

This legislation establishes mechanisms and procedures designed to promote economy, efficiency and effectiveness, and to prevent and detect fraud and abuse in programs and operations of 13 Federal departments and agencies. Accordingly, it may be expected to have some impact upon business organizations in the private sector which perform services and furnish supplies to the Federal departments and agencies involved.

The committee has taken special care to insure that enactment of H.R. 8588 will not impact on the personal privacy of individuals affected.

H.R. 8588 is expected to generate some additional paperwork, since it establishes Offices of Inspector and Auditor General in each of 13 departments and agencies, and requires each Inspector and Auditor General to make semiannual and other reports to respective agency heads and to the Congress. However, the costs and paperwork burdens generated by these requirements are expected to be more than offset by improved efficiency and effectiveness and the reduction of fraud and other abuses in programs and operations of the departments and agencies affected.

XII. Text of H.R. 8588 as Reported

AN ACT To reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Inspector and Auditor General Act of 1978".

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture,

the Department of Commerce, the Department of Defense, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

thereby is hereby established in each of such establishments an Office of Inspector and Auditor General.

APPOINTMENT AND REMOVAL OF OFFICERS

SEC. 3. (a) There shall be at the head of each Office an Inspector and Auditor General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector and Auditor General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector and Auditor General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(b) An Inspector and Auditor General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(c) For the purposes of section 7324 of title 5, United States Code, no Inspector and Auditor General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

DUTIES AND RESPONSIBILITIES

SEC. 4. (a) It shall be the duty and responsibility of each Inspector and Auditor General, with respect to the establishment within which his Office is established—

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations to the head of the establishment and to the Congress concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a)(1), each Inspector and Auditor General's audit function shall include, but is not limited to—

(1) examinations of financial transactions, accounts, and reports and reviews of compliance with applicable laws and regulations, including sufficient audit work to determine whether—

(A) the audited entity is maintaining effective control over revenues, expenditures, assets, and liabilities;

(B) the audited entity is properly accounting for resources, liabilities, and operations;

(C) the financial reports contain accurate, reliable, and useful financial data and are fairly presented; and

(D) the entity is complying with the requirements of applicable laws and regulations;

(2) a review of efficiency and economy to determine whether, in carrying out its responsibilities, the audited entity is giving due consideration to economical and efficient management, utilization, and conservation of its resources and to minimum expenditure of effort, including the specification of uneconomical practices or inefficiencies such as—

(A) procedures, whether officially prescribed or informally established, which are ineffective or more costly than justified;

(B) duplication of effort by employees or between organizational units;

(C) the performance of work which serves little or no useful purposes;

(D) inefficient or uneconomical use of equipment;

(E) overstaffing in relation to the amount of work to be done;

(F) faulty buying practices and accumulation of unneeded or excess quantities of property, materials, or supplies;

(G) inadequate cash management practices; and

(H) wasteful use of resources;

(3) a review of program results, including a consideration of—

(A) whether the program or activity is meeting the objectives established by the Congress or the establishment;

(B) whether the establishment has considered alternatives to achieve desired results at a lower cost;

(C) the relevance and validity of the criteria used by the audited entity to judge effectiveness in achieving program results;

(D) the appropriateness of the methods followed by the entity to evaluate effectiveness in achieving program results;

(E) the accuracy of the data accumulated; and

(F) the reliability of the results obtained.

(c) In carrying out the responsibilities specified in subsection (a)(1), each Inspector and Auditor General shall—

(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(d) In carrying out the duties and responsibilities established under this Act, each Inspector and Auditor General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(e) In carrying out the duties and responsibilities established under this Act, each Inspector and Auditor General shall report expeditiously to the Attorney General whenever the Inspector and Auditor General has reasonable grounds to believe there has been a violation of Federal criminal law.

REPORTS

SEC. 5. (a) Each Inspector and Auditor General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of

such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 5(b)(2) during the reporting period; and

(6) a listing of each audit report completed by the Office during the reporting period.

(b) Semiannual reports of each Inspector and Auditor General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing any comments such head deems appropriate.

(c) Within sixty days of the transmission of the semiannual reports of each Inspector and Auditor General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector and Auditor General shall report immediately to the head of the establishment involved whenever the Inspector and Auditor General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (a) In addition to the authority otherwise provided by this Act, each Inspector and Auditor General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector and Auditor General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector and Auditor General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: Provided, That procedures other than subpenas shall be used by the Inspector and Auditor General to obtain documents and information from Federal agencies;

(5) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)(1) Upon request of an Inspector and Auditor General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector and Auditor General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector and Auditor General, unreasonably refused or not provided, the Inspector and Auditor General shall report the circumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

EMPLOYEE COMPLAINTS

SEC. 7. (a) The Inspector and Auditor General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector and Auditor General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector and Auditor General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector and Auditor General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

SPECIAL PROVISIONS FOR THE DEPARTMENT OF DEFENSE

SEC. 8. (a) The head of any office, agency, or organization within the Department of Defense which conducts audits and investigations and are not otherwise transferred to the Office of Inspector and Auditor General of the Department of Defense by this Act shall, upon the request of the Inspector and Auditor General of the Department of Defense, provide any audit or investigative assistance which such Inspector and Auditor General determines to be necessary in order to carry out his responsibilities and to fulfill the purposes of this Act.

(b) The provisions of section 1385 of title 18, United States Code, shall not prohibit audits and investigations conducted by or under the direction of the Inspector and Auditor General of the Department of Defense to carry out the purposes of this Act.

(c)(1) If after review of the semiannual reports of the Inspector and Auditor General of the Department of Defense, the Secretary of Defense determines that—

(A) any such report contains specific information critical to the national security; and

(B) disclosure of such information would jeopardize the national security;

the Secretary of Defense may delete the specific information from the report prior to transmittal of such report to the Congress.

(2) If the Secretary of Defense deletes any information from a report of the Inspector and Auditor General of the Department of Defense under paragraph (1), the Secretary of Defense shall, within seven calendar days of the submission of such report to the Congress, provide the chairman and ranking minority members of the House and Senate Armed Services Committees with a general description of the nature of the information deleted.

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred—

(1) to the Office of Inspector and Auditor General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Defense, the offices of that department referred to as the "Defense Audit Service", the "Office of Inspector General in the Defense Logistics Agency," and that portion of the office referred to as the "Defense Investigative Service" which has responsibility for investigation of alleged criminal violations and program abuse;

(D) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(E) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(F) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations";

(G) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audit, Urban Mass Transportation Administration";

(H) of the Community Services Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";

(I) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(J) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(K) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(L) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

(M) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and

(2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

except that there shall not be transferred to an Inspector and Auditor General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector and Auditor General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in an Office of Inspector and Auditor General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 10. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(122) Inspector General, Department of Health, Education, and Welfare.

"(123) Inspector and Auditor General, Department of Agriculture.

"(124) Inspector and Auditor General, Department of Housing and Urban Development.

"(125) Inspector and Auditor General, Department of Labor.

"(126) Inspector and Auditor General, Department of Transportation.

"(127) Inspector and Auditor General, Veterans' Administration.

"(128) Inspector and Auditor General, Department of Defense.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(144) Deputy Inspector General, Department of Health, Education, and Welfare.

"(145) Inspector and Auditor General, Department of Commerce.

"(146) Inspector and Auditor General, Department of the Interior.

"(147) Inspector and Auditor General, Community Services Administration.

"(148) Inspector and Auditor General, Environmental Protection Agency.

"(149) Inspector and Auditor General, General Services Administration.

"(150) Inspector and Auditor General, National Aeronautics and Space Administration.

"(151) Inspector and Auditor General, Small Business Administration.

(c) Section 202(e) of the Act of October 15, 1976 (Public Law 94-505, 42 U.S.C. 3522), is amended by striking out "section 6(a)(1)" and "section 6(a)(2)" and inserting in lieu thereof "section 206(a)(1)" and "section 206(a)(2)", respectively.

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "audit" means work done (A) to examine financial reports and to review compliance with applicable laws and regulations; (B) to review efficiency and economy of operations; and (C) to review effectiveness in the achievement of program results; and

(2) the term "investigation" means inquiries and examinations made to detect, or in response to allegations of, irregularities or violations of law, including misconduct, malfeasance, misfeasance, nonfeasance, fraud, or criminal activity on the part of any employee, person, or firm directly or indirectly connected with the establishment, or operations financed by the establishment;

(3) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(4) the term "establishment" means the Department of Agriculture, Commerce, Defense, Housing and Urban Development, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, or the Veterans' Administration, as the case may be;

(5) the term "Inspector General" means the Inspector General of an establishment;

(6) the term "Office" means the Office of Inspector and Auditor General of an establishment; and

(7) the term "Federal agency" means an agency as defined in section 552(e) of title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

EFFECTIVE DATE

SEC. 12. The provisions of this Act and the amendments made by this Act shall take effect October 1, 1978.

Amend the title so as to read:

An Act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Department of Agriculture, Commerce, Defense, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.

Passed the House of Representatives, April 18, 1978.

Attest:

EDMUND L. HENSHAW, JR.,
Clerk.

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Calendar No. 994

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1072

AGRICULTURAL FOREIGN INVESTMENT INFORMATION ACT OF 1978

AUGUST 8 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 3384]

The Committee on Agriculture, Nutrition, and Forestry reports an original bill (S. 3384) to require foreign persons who acquire, transfer, or hold interests in U.S. agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings, and recommends that the bill do pass.

SHORT EXPLANATION

The bill being reported by the committee would require foreign nationals who acquire, transfer, or hold interests in U.S. agricultural land (including leasehold interests of 5 years or more) to report their transactions or holdings to the Secretary of Agriculture. The Secretary would be required to analyze information gained from the reports and submit annual reports to the President and Congress on the effects of such foreign investment.

SUMMARY OF MAJOR PROVISIONS

The bill being reported by the committee would—

(1) require all foreign nationals who hold interests in U.S. agricultural land as of the effective date of the bill (including leasehold interests of 5 years or more) to submit a report to the Secretary of Agriculture within 180 days detailing their nationality, the type of interest they hold, the location of the land, the acreage involved, the date of acquisition of the interest, and the purchase price or other consideration (sec. 3(a));

(2) require foreign nationals who acquire or transfer U.S. agricultural land in the future (including leasehold interests of 5 years or more) to submit a report to the Secretary within 30 days after the transaction detailing their nationality, the nationality of the person to whom they transferred the land, the type of interest they acquired or transferred, the location of the land, the acreage involved, and the purchase price or other consideration (sec. 3(b));

(3) require the Secretary of Agriculture to—

(a) develop, and distribute within 60 days after the effective date of the bill, a standard form for reporting foreign land investments;

(b) analyze information obtained through the reporting requirements and determine the effect that such foreign investment in U.S. agricultural land is having on U.S. agriculture, the economy, and our foreign relations; and

(c) transmit reports of his analyses and determinations to the President and the agriculture committees of Congress (the first report—on the extent of foreign holdings as of the effective date of the bill—would be due by July 31, 1979; subsequent reports would be submitted on an annual basis) (sec. 4);

(4) authorize the Secretary to assess civil penalties against persons who violate the reporting requirements of the bill. A penalty could be assessed at any amount up to 25 percent of the fair market value of the agricultural land with respect to which the violation occurred (sec. 5); and

(5) be effective for the period October 1, 1978, through September 30, 1981 (sec. 6).

Background and Need

I.

Agriculture is the basis of the Nation's social and economic strength. The ability of our farmers to provide the American people with the most abundant supply and varied array of high-quality food and fiber at reasonable prices is the envy of the world. Without doubt, agriculture has done much to give us a standard of living that is unsurpassed in the world.

In addition, agricultural exports last year were nearly $24 billion, exceeding our agricultural imports by over $10 billion. This helped reduce our balance of payments deficit and gave the dollar much needed support abroad. The fertile soils and the quality of the climate no doubt account for much of the productivity of American agriculture. Individually owned family farms, where the benefits of a farmer's labor and enterprise are returned directly to him, have also been a major factor.

II.

A few months ago, farmers across the Nation expressed their desire for higher prices for their production. Although the hearings conducted by the committee focused on the financial plight of American

agriculture, many farmers expressed concern over reported increased activity among foreign investors in the purchase of U.S. agricultural land. These farmers reported several instances in which foreign interests were buying large acreages of prime farmland and rangeland, often at prices far out of reach of our own farmers.

Senator Talmadge, chairman of the Committee on Agriculture, Nutrition, and Forestry, became concerned and sought to identify the issues involved. It soon became evident that reliable data to answer the questions involved were not available.

The United States has slightly more than 1 billion acres of private farmland, but only a fraction (roughly 3 percent according to the U.S. Department of Agriculture) normally comes on the market in any one year. For 1977, it was estimated that the total value of farmland sales was slightly more than $15 billion. However, no private or Government agency has accurate data on how much of these sales can be attributed to foreign purchases, although some observers estimated that perhaps $1 billion of this amount was foreign purchases.

Efforts were made to document such estimates, but little solid information was found. The only national estimate of foreign investment in real estate is contained in the U.S. Department of Commerce's benchmark survey of 1975. This survey—which covered 6,000 foreign firms and individuals with direct investment in the United States—was done under the authority of the Foreign Investment Study Act of 1974 (Public Law 93–479). One part of the survey was prepared by the Department of Agriculture and entitled, "Foreign Investment in U.S. Real Estate." About 340 entities reported landholdings of 200 acres or more, for a combined foreign ownership of about 4.9 million acres. An additional 62.8 million acres were leased by foreigners.

The author of the summary article and project manager for this report, Dr. Gene Wunderlich, stated that the information in the 370-page report covering foreign real estate interests was ". . . no better quantitative information than is available in newspaper reports, magazines, and trade journals." In sum, it was determined that "We do not know who our landowners are—foreign or domestic."

III.

Other Federal efforts have been established to help fill the data gaps—but these show little promise. Specifically, the International Investment Study Act of 1976 (Public Law 94–472) gives broad authority to the Department of Commerce to expand its monitoring of foreign direct investments in the United States.

The Department of Commerce is currently in the process of expanding its monitoring efforts through its various agencies. Although these expanded data-gathering efforts could theoretically help fill the large data gaps that now exist, Department of Commerce officials maintain that a clear picture of what is going on will not be ascertained. One reason is because many smaller investments made by individuals will not be included in the data gathered. Another is that many of these investments are disguised through the use of trusts, partnerships, and corporations headquartered offshore. Still another reason is that the data collected by the various agencies are aggregated, and it is impossible to sort out agricultural land purchases from other types of real estate investments.

IV.

The Department of Agriculture has two separate, but related, efforts underway to improve the data base on agricultural land ownership and control. The USDA has initiated the resource economics survey of land ownership. The results of the survey will be available in early 1979. This is a survey sample of 50,000 parcels of non-Federal land and designed to provide State-level estimates of the principal owner characteristics such as age, occupation, and income.

Unfortunately, only 1 of the 28 questions appearing on this questionnaire deals directly with foreign ownership. Therefore, the data collected from this sample survey will not provide all the desired details on foreign ownership. Furthermore, the use of nominees, trusts, partners, corporations, and other devices that mask the owners' real citizenship will limit the usefulness of the data.

The International Investment Survey Act gives the Department of Commerce a broad mandate to monitor direct foreign investments. Under section 4(d) of the bill, the President is directed to:

> * * * conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, urban real property, including the feasibility of establishing a nationwide multipurpose land data system. * * *

The responsibility for the section 4(d) study has been delegated to the Department of Agriculture, which has begun the preliminary stages of this investigation. This study is scheduled for completion in late 1979 pending congressional approval of appropriations for this purpose. It will examine such problems as how actual ownership can be cloaked; the usefulness of public title and tax records in providing aggregate data; the adequacy, timeliness, and accuracy of various public and private sources of information; and comparable methods of reporting in other countries.

It should be noted, however, that this is a study to determine the feasibility of establishing a monitoring system. While this study appears worthwhile in that it will offer valuable guidelines as to the best way to implement such a system, no data will be collected to help fill the information void that exists. Neither States nor the Federal Government appears to have the ability at this time to determine the level of foreign investment in agricultural land.

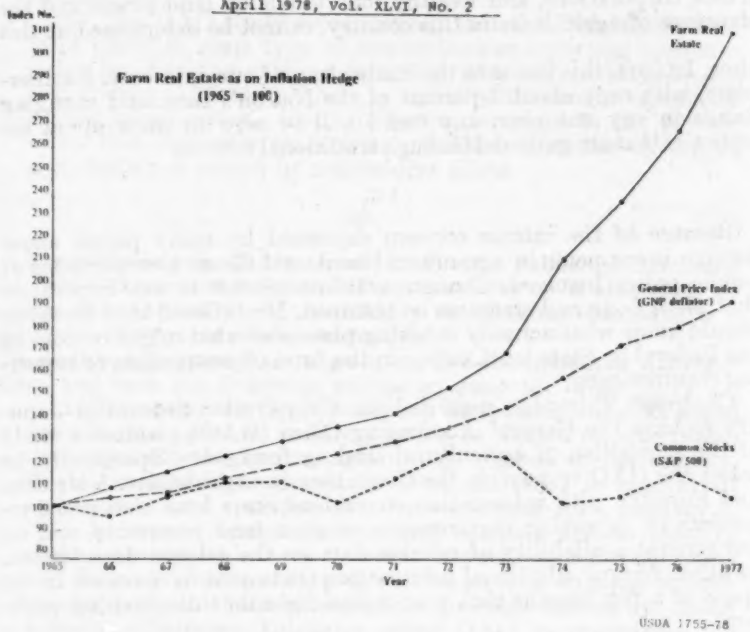
V.

There are several reasons why such investments are expected to increase as more foreigners become aware of the financial benefits of investing in American farmland.

Recently, farmland in the United States has had more value as an investment asset than as a productive asset. Since 1970, average farmland value across the United States has more than doubled; in some areas, it has tripled. Between 1972 and 1976, the appreciation on all U.S. farmland, it is estimated, was $339 billion, while the income from agricultural production on that land during that period was $144 billion.

Few investment opportunities have been as lucrative and safe as U.S. farmland in the past decade. Relative changes in farm real estate value, the general price index, and common stock values since 1965 is compared in the following chart. From 1965 to 1977 the farm real estate index more than tripled, while the GNP deflator did not quite double, and the Standard and Poors 500 stock average is essentially unchanged.

Taken from The Appraisal Journal
April 1978, Vol. XLVI, No. 2



USDA 1755-78

Besides recent increases in the price of agricultural land, other reasons appear just as important in making these investments attractive to foreign investors. One is that many foreigners enjoy tax advantages when they invest abroad. Another reason is the huge U.S. balance-of-payments deficit that has resulted in a devaluation of the dollar, making the price of American farmland even cheaper, in real terms, for foreign investors.

In addition, political instability in their home countries is encouraging many foreigners into U.S. investments.

VI.

A number of undesirable consequences have been attributed to foreign investments in U.S. farmland. It has been suggested that foreign investors frequently pay more than the prevailing market price for land. This could inflate land prices beyond the reach of small family farmers and endanger our entire system of agriculture.

Concern is also expressed that significant foreign ownership could compromise U.S. control over its own food production, affecting domestic food prices, supply, and international trade.

Finally, it has been charged that foreign investors, as absentee owners, would neglect local community activities and responsibilities, and might leave the land idle, using it solely as a speculative investment.

The consequence of investment by foreign entities, various kinds of trusts, corporations, and wealthy individuals on land prices and the structure of agriculture in this country, cannot be determined at this time. In part, this is due to the inadequacy of our data base. Furthermore, with only about 3 percent of the Nation's farmland changing hands in any one year, any trend will be slow to show up in the statistics that are gathered through traditional sources.

VII.

Because of the intense concern expressed by many people about foreign investments in agricultural land, and the serious questions of public policy involved, Chairman Talmadge felt it was imperative that more facts and statistics be obtained. He believed that everyone should know what actually is taking place and what might be done at the Federal or State level, either in the form of restrictions or reporting requirements.

Chairman Talmadge requested the Comptroller General in January to have the General Accounting Office (GAO) conduct a study of the acquisition of agricultural land by foreigners. Specifically, he asked the GAO to provide the Committee on Agriculture, Nutrition, and Forestry with information on various State laws that place restraints on reporting requirements or alien land ownership and on the general availability of reliable data on the subject. In addition, he asked for any additional information that could be obtained in the space of a few months that would shed light on this potential problem.

The GAO study was completed in June, 1978. In summary:

(1) Twenty-five States have laws that place some constraints on aliens holding or acquiring farmland. The GAO report concluded, however, that these laws were not very effective, and that very little information on this subject exists at the State level.

(2) GAO did a spot check for 25 counties in 5 states. It was determined that 44,716 acres of agricultural land in three counties were purchased by foreign interests since January 1976. This represented 0.3 percent of all farmland (not just farmland transferred during this period of time) in those counties. In one county in the State of Georgia, 6.3 percent of all farmland was purchased by foreigners during this time period.

(3) The GAO report maintained that it was virtually impossible to collect the desired data at the local level—because of the variety of methods used to record land transactions and because it is very hard to positively identify the citizenship of the land purchaser.

(4) The GAO tried to ascertain the impact of these purhcases in the price of land in those counties, but they could not determine whether the prices were higher or lower than prevailing market prices.

(5) GAO listed all of the Federal efforts touching on this subject of better data that have been started or planned. The report concluded that these efforts for obtaining useful data are "not encouraging."

(6) The GAO study recommended that the Federal Government establish some type of comprehensive reporting system—either by changing existing reporting laws or by establishing a new system. GAO stated there is virtually unanimous agreement among persons at all levels of government and in the private sector that, currently, there is no reliable data on the amount of U.S. farmland owned by nonresident aliens.

VIII.

After reviewing the GAO report, Chairman Talmadge concluded that, while the report raised as many questions as it answered, its findings showed that foreign ownership of American farmland is a legitimate concern that needs more analysis.

To do this, Chairman Talmadge intensified the committee's investigation, and took the following actions on June 13, 1978:

(1) Requested the GAO to expand its investigation. He asked that the next phase of its investigation be focused on nine States that represent the various agricultural regions of the country. Within each of these States, he asked the GAO to analyze all agricultural land transfers that have occurred since January 1, 1977, in several representative rural counties and to identify to the extent possible those transfers that represent foreign interests. From this sample data, it will be possible to make reasonable projections of the extent of the problem nationally. Additionally, Chairman Talmadge asked GAO to investigate the reasons why foreigners are investing in our farmland.

(2) Requested that the cooperative extension service in each State have the extension agents in each county report on any farmland purchases by foreigners since January 1, 1977, of which they have knowledge.

(3) Requested the Administrator of the Agricultural Stabilization and Conservation Service (ASCS) of the United States Department of Agriculture to have each of its county offices review its records to attempt to identify any farm or ranch land purchased by foreign interests since January 1, 1977.

(4) Requested the Secretary of Commerce to provide the committee with whatever information the Department might be able to obtain through its International Investment Division on foreign investment in American agricultural land beginning January 1, 1977. He also asked the Secretary to include farmland investment by foreigners in a new annual foreign investment survey that the Commerce Department is currently developing.

(5) Requested the Congressional Research Service to prepare an overview paper discussing constitutional, international treaty, and other legal questions that would be involved in any Federal or State legislation dealing with the purchase and ownership of U.S. farmland by nonresident foreign aliens.

(6) Requested the Senate Appropriations Committee to add $450,000 to the 1978 supplemental appropriations bill to enable the United States Department of Agriculture to conduct a study of the feasibility of the establishment of a system for monitoring foreign investment in agricultural property and a multipurpose land data system. This feasibility study was authorized by Congress in the International Investment Survey Act of 1976.

IX.

The implications of foreign ownership of U.S. agricultural land on our family farm system and the national economy are potentially great. Accurate and comprehensive data must be gathered and analyzed as soon as possible. Therefore, it is imperative that S. 3384 be enacted immediately.[1]

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 provides that the bill may be cited as the "Agricultural Foreign Investment Information Act of 1978."

Section 2.—Definitions

Section 2 would define the following terms used in the bill: "agricultural land," "foreign nation," "United States," "foreign person," "person," and "Secretary."

The term "agricultural land" would be defined to include land located in the United States generally used for producing agricultural commodities (including forest products), raising livestock or poultry, or for other agricultural purposes, as defined by the Secretary of Agriculture.

The term "foreign person" would include nonresident aliens, foreign corporations or similar entities, domestic corporations or similar entities substantially controlled by foreign interests, and foreign governments.

The term "Secretary" would refer to the Secretary of Agriculture.

Section 3.—Reporting requirements

Section 3 would establish reporting requirements for foreign persons who invest in U.S. agricultural land and authorize the Secretary of Agriculture to obtain ownership information with respect to corporations or similar entities listed in reports.

Any ownership or control interest in agricultural land, except for security interests such as mortgages, held by the foreign person would be subject to the reporting requirements of section 3. This would include leases of more than 5 years, land sales contracts, options to

[1] An issue brief on foreign investment in U.S. farmland prepared by the Congressional Research Service is printed in part as an appendix to this report.

purchase, and similar arrangements that provide the holder a beneficial interest in the land.

Section 3 would establish two reporting requirements for foreign persons who hold interests in U.S. agricultural land as follows:

(1) Foreign persons holding such interests on the day before the effective date of the bill (October 1, 1978) would be required to report, or have their designated agent report, to the Secretary within 180 days after the effective date—

(a) their legal name and address,

(b) if an individual, their citizenship,

(c) if a corporation or similar entity, the nation in which they are organized, their principal place of business, the legal names, addresses, and citizenship (or nations where organized and principal places of business) of those who hold a substantial interest in them,

(d) the type of interest held,

(e) a legal description of the land involved, including the State and county in which the land is located and the total acreage,

(f) the date of acquisition of the interest and the purchase price or consideration given for the interest, and

(g) such other information as the Secretary might require; and

(2) Foreign persons who acquire or transfer such interests after the effective date would be required to report, or have their designated agent report, to the Secretary within 30 days after the acquisition or transfer—

(a) their legal name and address,

(b) if an individual, their citizenship,

(c) if a corporation or similar entity, the nation in which they are organized, their principal place of business, the legal names, addresses, and citizenship (or nations where organized and principal places of businesses) of those who hold a substantial interest in them,

(d) the type of interest acquired or transferred,

(e) a legal description of the land involved, including the State and county in which the land is located and the total acreage,

(f) the purchase or consideration given or received for the interest,

(g) if the interest is transferred to another person by the foreign person, the legal name, address, and citizenship (or nation where organized and principal place of business) of the transferee, and

(h) such other information as the Secretary may require.

The manner of reporting would be established by the Secretary by regulation.

Section 3 also provides that the Secretary will have the authority, with respect to any corporation or similar entity whose legal name is reported to the Secretary, to take action to determine the legal name, address, and citizenship (or nation where organized and principal place of business) of any individual or entity that holds an interest in such entity.

Section 4.—Reports and monitoring

Section 4 would impose several requirements on the Secretary of Agriculture to process information gathered from reports submitted under section 3 of the bill, establish filing dates for submission of reports to the President and Congress, and require the Inspector General of the Department of Agriculture to monitor reports submitted under section 3 for reliability.

The Secretary would be required to—

(1) develop and distribute a standard report from (with instructions) within 60 days after the effective date of the bill;

(2) seek the cooperation and assistance of States and county governments, make maximum use of Department of Agriculture field offices, and use such other means as might be necessary, to make wide distribution of the standard report forms and instructions, publicize reporting requirements and procedures, and collect reports required under section 3;

(3) analyze information obtained from the reports and determine (a) trends in foreign investment in U.S. agricultural land, and (b) actual and potential effects of such investments on the U.S. agricultural industry and general economy, and on our foreign relations; and

(4) transmit his findings and conclusions regarding these analyses and determinations to the President and the agriculture committees of Congress.

The first submission to the President and Congress (covering the reports from foreign persons holding interests in land on the effective date of the bill) would be due within 10 months after the effective date. The Secretary would then be required to submit reports annually, through 1981, covering acquisitions and transfers by foreign investors during the previous calendar year. The first such report would cover calendar year 1979 and the last 3 months of 1978. It would be due by March 31, 1980. The next annual report would be due March 31, 1981, to cover calendar year 1980, and the last annual report would be due as soon as practicable after September 30, 1981, to cover that part of calendar year 1981 to which the reporting requirements under the bill apply.

Section 4 would also require the Inspector General of the Department of Agriculture to conduct periodic studies to determine the reliability of the information reported by foreign investors, and the effectiveness of the procedures of the Secretary for obtaining, analyzing, and reporting information.

Section 5.—Civil penalty

Section 5 would make foreign investors in U.S. agricultural land who are subject to the reporting requirements of section 3 of the bill, and their designated agents, liable for civil penalties for violation of the section 3 reporting requirements or regulations issued thereunder. The penalty for any violation would be assessed by the Secretary of Agriculture and could not exceed an amount equal to 25 percent of the fair market value of the interest in the agricultural land with respect to which the violation occurred. The Secretary would determine fair market value.

If the person assessed a penalty did not pay it to the Secretary, the Attorney General would have the obligation to recover the penalty in a civil action in Federal district court. Section 5 provides that in such civil action the validity of the penalty, and the appropriateness of the penalty in relation to the seriousness of the violation, would not be subject to review by the court.

Section 6.—Effective dates

Section 6 provides that the bill would be effective for the period beginning October 1, 1978, and ending September 30, 1981.

Committee Consideration

The committee met on August 8, 1978, to consider S. 3372 (introduced by Chairman Talmadge) and S. 3352 (introduced by Senator Cranston). The bills, which are substantially similar, would establish reporting requirements for foreign persons who invest in U.S. agricultural land.

During its deliberations, the committee adopted an amendment offered by Senator Hodges to include leasehold interests (of 5 years or more) conveyed to foreigners in the reporting requirement.

An amendment was adopted that would limit the effective period of the bill to fiscal years 1979 through 1981.

These amendments, and technical and conforming amendments, are contained in S. 3384, which the committee agreed unanimously to report to the Senate.

Regulatory Impact Evaluation

In compliance with subsection 5 of rule XXIX of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact that would be incurred in carrying out S. 3384.

I.

S. 3384 would require that all foreign persons who acquire, transfer, or hold interests in U.S. agricultural land report such transactions and holdings to the Secretary of Agriculture. Failure to comply with this requirement would subject such persons to a civil penalty of not to exceed 25 percent of the fair market value of such interest in U.S. agricultural land.

The bill would require the Secretary to analyze the information contained in the reports and assess and report the actual and potential effects of such transactions and holdings.

II.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. It is designed only to develop information, rather than regulate or limit any current activity.

III.

The reporting requirement contained in the bill would require the design and use of a new reporting form. It is anticipated that some

additional paperwork will result from implementation of the reporting requirements, and compilation and assessment of reported data, by the Secretary. But the total increase is expected to be minimal.

The volume of initial registration is impossible to predict, because no reliable information on foreign purchases of agricultural land is available on a national scale. However, subsequent registrations should not involve a substantial volume of reports. There are approximately 2.8 million farms in the United States. Transfers of these farms average approximately 3 percent annually or 84,000 farms. If transfers to foreign interests average 10 percent, this would result in about 8,400 farms per year. Since there are approximately 3,000 counties in the United States this would average out to approximately 3 transfers per county that would be subject to the reporting requirement.

IV.

Enactment of the bill will not affect the personal privacy of individual U.S. citizens or aliens with permanent residences in the United States; however, it would have an effect on the personal privacy of nonresident aliens who own U.S. agricultural land. The extent of this effect would be limited, however, only to the reporting of the size, price, and type of their landholdings and a minimum of personal information, including the owner's name, citizenship, and address.

V.

Enactment of the bill would not have any effect on the price of agricultural land and is not expected to result in any major increase in costs for the Department of Agriculture. The Department currently has a statistical reporting system that can be used to carry out the provisions of the bill. Because of the limited number of affected farms at the county level, this system would not need to be modified.

VI.

Local brokers of agricultural land may feel compelled to familiarize themselves with the requirements of the bill in order to advise their foreign clients. However, there would be no liability by an American seller fort he failure of that seller's foreign purchaser to report his purchase.

Administration Views

The committee has received no report from the Department of Agriculture on the bill being reported, nor has the committee received reports from the Department on S. 3372 and S. 3352. However, the Department of Agriculture is deeply aware of the increasing attention and concern over the issue of foreign investment in farmland. In this connection, Howard Hjort, the Department's Director of Economics, has testified at hearings before the Subcommittee on Family Farms, Rural Development, and Special Studies of the House Committee on Agriculture. Mr. Hjort's statement before the subcommittee read as follows:

I.

June 20, 1978

Mr. Chairman, I am pleased to discuss perspectives on the issue of foreign ownership of U.S. real estate and describe some work underway in the Department of Agriculture.

We are acutely aware of the extensive publicity on purchases of U.S. real estate by foreigners. Much of this publicity has been focused on purchases of farmland. Although the press has been useful in highlighting the foreign investment issue, and calling attention to a number of notable transactions, it has not provided, nor should it be expected to provide, systematic data and analyses on the quantity and importance of these purchases.

So far as we know there are no accurate estimates of the quantity of land in foreign ownership or the number of foreign owners. In 1975 the Commerce Department as part of its study of foreign direct investment in the U.S. asked all 6,000 respondents in their survey to report on landholdings in excess of 200 acres. Total land owned, as reported in that survey, was 4.9 million acres. Using that number as a base and adding liberally to account for foreign acquisitions since then [1] *we conclude that no more than one percent of private land could be held by foreigners. Even if all of that were farmland (which it is not) it would be only slightly more than one percent of U.S. farmland.*

We do not believe that the amount of farmland owned by foreign investors per se has had a significant impact on farmers or the agricultural economy at this time. Of greater concern are overall trends in land ownership in the United States, the impact of these trends on the structure of agriculture and the future viability of a family farm system, and the use and distribution of our land. Of particular importance are government policy decisions, both within and outside agriculture, which impact these trends.

Before I begin to address the questions which this committee submitted to us on the foreign investment issue, I would like to give a brief background on the changing economic role of farmland in the U.S. It is within this context that questions concerning investment in U.S. farmland, either by foreign interests, wealthy Americans, corporations, investment trusts, or farmers, must be evaluated.

We have recently gone through a time in our history when farmland in the United States had more value as an investment asset than as a productive asset. Since 1970, average farmland value across the United States has more than doubled; in some areas of the midwest it has tripled. Signifi-

[1] At current rates of acquisition, and allowing for no disposition, reported holdings of 1.2 million would be added to the total, yielding a current total of about 6.1 million acres. Double this amount would still be less than 1 percent of private land.

cantly, during the period of time between 1972 and 1976 the capital gains possible on all U.S. farmland were estimated at $339 billion; the income earned off the production of that land was $144 billion, or less than half of that. According to our estimates, farmland value will climb another 6–8 percent during the year beginning February 1978.

Perhaps with the exception of an oil well in Saudi Arabia, there have been few investment opportunities in the seventies which were both as lucrative and safe as U.S. farmland as a hedge against inflation. I have with me today a chart which compares farm real estate with the General Price Index and with Common Stocks since 1965. From that year to 1977 the farm real estate index more than tripled, while the GNP deflator did not quite double, and the Standard and Poors 500 stock average was essentially unchanged. With the additional incentive of diversification of investments, the security of farmland investment, and the favorable price of U.S. farmland compared to farmland prices in Western Europe and Japan, there is little reason to wonder why the farm real estate market has been so attractive to investors.

The impact of investment by foreign entities, various kinds of trusts, corporations, and wealthy individuals on land prices and the structure of agriculture in this country is simply not statistically available at this time. In some part, this is due to the inadequacy of our data base and the lack of a nationwide system to keep track of land ownership. Furthermore, with only about 3 percent of the Nation's farmland changing hands in any one year, the impacts of any trend are slow to show up in the statistics that are gathered. It is reasonable to assure that if farmland remained as attractive an investment in the future as it has in the past few years, the number of investors would continue to increase. Therefore, we must separate our assessment of current impact from potential future impact in our responses.

Farm real estate price increases

Recent increases in farmland prices is due to many factors, but most particularly to favorable crop prices during 1972–75 and farmers bidding against other farmers to expand their current farm sizes. USDA statistics show that in 1976, for example, 65 percent of the land transferred went to active farmers—the rest went to local non-farmers, non-county residents, or "others." By far the largest percentage of land sold was to expand acreage of existing farms: In 1976 farm enlargement accounted for 63 percent of all farm tract purchases.

From purchases of farmland we have been able to identify since January 1, 1977, we estimate the annual value of farmland sold to foreign investors would amount to around $120 million. Even if we doubled that amount, foreign purchases would represent only about 1 percent of the annual value of sales of farmland in the U.S.

In a competitive land market, with a large number of potential investors, the price will tend to be set by the value

of land of the most highly efficient and largest farms. There are a number of kinds of purchasers which will have an advantage in this kind of market. Older farmers, who have large operations which they have purchased years ago at relatively low land prices, can spread the cost of the new land over their entire acreage and usually save on the cost of other agricultural inputs which can be used more efficiently on the larger acreage. They can, therefore, afford to pay more for a given parcel of land than can a smaller farmer, whose per acre costs are higher, or a young farmer whose land was bought at higher prices. Thus, a rising land market tends to both increase land prices at the same time as it tends to bid land away from smaller, "less efficient" farmers to larger, more well established ones.

Impact on the size of farms

There are no statistics which adequately relate foreign investment in agricultural land is conducive to leasing to tenants, or engaging in farming directly by employing a full time manager, or by using a farm management company. The U.S. Census of Agriculture consistently shows both tenant operated farms, and farms operated by owners who also rent a portion of their units are larger in land area than farms entirely owned by the operator. The largest farm size are those operated by managers. Furthermore, since the residual returns to land are the greatest on the larger farm, it is these farms which offer the greatest profit opportunities and would be the best natural candidates for investment.

Impact on taxes

As land values are increased for whatever reason, the ad valorem real property tax will be increased if the tax rate remains the same. The cash flow problems caused by increasing taxes on appreciating assets is recognized. Reducing the tax rates will only have the effect of further increasing land values, thus enhancing the speculative or investment, as against the productive, aspect of farming. This is indeed an important issue, but again one which extends beyond foreign investment.

Impact on intergenerational transfer

The problem of passing farmland from one generation to another is of serious concern to both policy makers and farmers. Again, the problem is the general one of land price inflation, rather than foreign investment. As the value of the land increases, so must the amount of death taxes, which can become an unsustainable burden for the heirs. On the other hand, as with real estate taxes, if relief is provided through increased inheritance tax exemption, the attractiveness of using land as an intergenerational wealth shelter increases, making the land more valuable as an investment and adding additional price pressure.

The separation of capital, labor, and management

Perhaps the single most important structural change which may be occurring in the agricultural sector today is the increasing frequency of the separation of ownership from operation, in some part encouraged by the attractiveness of farmland investment. Traditionally family farmers have taken their profits in terms of making a living on the combined earnings of the land, their labor and their management skill. However, as these functions are separated, rather than taking the combination of all three jointly producing a decent living, each will require its own competitive return. Managers will require a salary on scale with industry. The new capital asset base will have to compete in tight and expensive markets, drawing capital away from other uses and paying whatever price the market imposes to meet that competitive need. Land will increasingly reflect its investment value, rather than its productive value, as it has in recent years.

Impact on absentee ownership

To the extent that farmland is transferred out of the hands of farmers and into the hands of absentee landowners of any kind, there will be impacts on the community. Depending on the use of the holding, and its profitability, as well as the business decisions made by the owner, the net flow of income may be into or out of the community. If the land is owned by persons who do not contribute to community decisionmaking, public action, local service, and general community interest, then the effect may be negative. Again, I submit that this problem is no more or less severe if the absentee owner is located in Chicago, New York, or Tokyo or Milan.

National interest

The issue of foreign domination of food supplies can be treated directly. If a foreign country (aside from the investors of that country) wished to create harm to the U.S. or its citizens, the control of food supplies through ownership of one resource would be extremely inefficient and probably ineffective if tried. Obviously, domination of commodities is far easier and direct than ownership of land. If foreigners do get land at bargain prices and export profits, there would be a long run negative effect on the balance of payments. However, it is unlikely that special ability to seek out and purchase bargains would be among the advantages one might ascribe to foreign investors.

Impact on balance of trade, commodity prices, farm income, and U.S. exports

We have no way to statistically measure any impact foreign investment in farmland might have on commodity prices, balance of trade, farm income of U.S. exports. Because of the limited extent of foreign investment in farmland, these impacts are probably negligible.

Concessions

We do not feel that the situation of outside investor ownership of farmland has reached the kind of crisis proportions

frequently portrayed in the media to warrant any action to restrict such ownership. We do feel, however, that the situation of land ownership in general and its impact on the family farm structure, requires more careful monitoring than has taken place in the past.

There are a number of steps we are undertaking at the Department of Agriculture to both improve our data base on land ownership and control, and to look at the secondary impacts of land investment on the structure of American agriculture and family farmers.

We are currently seeking to improve our statistics on land ownership. The Resource Economic Survey of Land Ownership is now underway and results of that survey will be available later this year and early in 1979. The survey is a sample of 50,000 places of non-Federal land and was designed to provide State level estimates of the principal owner characteristics. It includes questions on the residence and citizenship of the owner. The survey data will permit us to determine who owns the land;the type of owner (individuals, corporations, trusts, etc.) ; the characteristics of owners such as occupation, income, age; the total quantity of land held and its use; and the land improvements, management, acquisitions and dispositions. The survey will provide a data base from which analyses can determine how owners affect they way land is used, how ownership of land affects the distribution of program benefits and costs and how wealth is distributed among segments of our population.

Although the national land ownership survey may supply some information on foreign holders it was intended for the larger picture of landownership. Because the number of foreign owners is small and the quantity of land owned by them is small, the sample survey cannot provide all the desired detail on foreign ownership. Furthermore, the use of nominees, trusts, partners, corporations and other devices to mask the identity of owners may obscure the actual ownership patterns.

As the International Investment Survey Act of 1976 (IISA) recognized, and the recent GAO report confirmed, the lack of adequate facts is a problem in analyzing the foreign ownership issue. Under Section 4(d) of the IISA the President was directed to:

> * * * conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multi-purpose land data system. * * *

The responsibility for the 4(d) study has been delegated to the Department of Agriculture and, pending approval of Congress for supplemental appropriation, the Department has begun the preliminary stages of an investigation of several methods of monitoring foreign ownership of U.S. real estate, urban and rural. This study is scheduled for completion in late 1979. It will examine such problems as the means by which ownership identity can be cloaked; the usefulness of

public title and tax records in providing aggregative data; the adequacy, timeliness, and accuracy of various public and private sources of information; and comparable methods of reporting in other countries.

In addition, we are increasing our attention to the structural pressures on the family farm system, including land prices and ownership, taxes, marketing problems, and more. At the request of Congress, we are preparing a report on the status of the family farm, which deals with some of these issues, and which will serve as a base for continued investigation. The report will be transmitted to the Congress in early July.

July 19, 1978

Mr. Chairman, we at the Department of Agriculture are deeply aware of increasing attention and concern over the issue of foreign investment in farmland. As I stated in my testimony before this Subcommittee a few weeks ago, we view the issue of foreign ownership as one part of a broader concern: The status of land ownership in the United States, and the relation of ownership to the structure of agriculture and the future viability of the family farm system. From our best information, we estimate that the amount of farmland owned by foreign investors at this time is at the most slightly more than one percent of all farmland.[1] This is a generous estimate: The amount is probably not even this great.

Based on this and other information, we do not believe that the amount of farmland purchased by foreign investors has had a significant impact on farmers or on the agriculture economy at this time. However, we do agree that the situation requires more careful monitoring than has taken place in the past.

There is a need for more data on land ownership and investment, and we have two studies underway at the Department to provide this data.

The first, the Resource Economic Survey of Land Ownership, will provide results late this year. The survey is a sample of 50,000 places of non-federal land and is designed to provide state level estimates of the principal owner characteristics such as residence, occupation and economic class. It will also permit us to determine who owns the land, the type of ownership (individuals, corporations, trusts, etc.) and how it is used. It will allow us to extrapolate other important information. It will provide citizenship data but the frequency of foreign ownership is so small that data may not be reliable.

[1] In 1975 the Commerce Department as part of its study of foreign direct investment in the U.S. asked all 6,000 respondents in their survey to report on landholdings in excess of 200 acres. Of this amount only 1.1 million acres were owned by respondents classified in agriculture and forestry. Total land owned, as reported in that survey was 4.9 million acres. Using that number as a base and adding liberally to account for foreign acquisitions since then we conclude that substantially less than one percent of private land could be held by foreigners. Even if all of that were farmland (which it is not), it would be only more than 1 percent of U.S. farmland.

The second study, in which the USDA is taking the leadership, was authorized under the International Investment Survey Act of 1976. The Act directed the President to conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agriculture, rural and urban property, including the feasibility of establishing a nationwide multi-purpose data system. This study is scheduled for completion in the fall of 1979.

Although the five bills before us today each have unique provisions, the crux of each is a reporting and registration provision for foreign investment activity in farm real estate similar in some respects to one of the options we propose to evaluate. I can say, even before evaluation, that to develop a system of monitoring and registering foreign land purchases, should that be considered advisable, would be an enormous undertaking, requiring a great deal of manpower and budget. Given the magnitude of the task, it should be done carefully and well. It would not be a simple task, and it should not be undertaken lightly or without adequate information to determine the necessary scope and design of the system, or resulting studies, if we expect to accomplish our purpose.

The amount of agriculture land which changes hand each year is very small—less than 3 percent. We do have measures of how much of that land leaves the hands of active farmers: In 1976, 65 percent of all farmland was purchased by active farmers—the rest went to local non-farmers, non-county residents of "others." Given that amount of foreign investment in U.S. farmland appears to be small at present we believe there is sufficient time to develop a preliminary data base and to determine the feasibility of a system for monitoring it.

For this reason, we feel that all of the proposed legislation before us today is premature. However, this is not to say that we do not take the problem or the proposed remedies seriously. You have our commitment that when we complete the two studies, we will report back to you our findings, and we will work with you to formulate a legislative remedy to the problems which we mutually identify if a legislative remedy is required.

Cost Estimate

I.

In accordance with section 252 of the Legislative Reorganization Act of 1970, the committee estimates that there will be no significant additional costs incurred in carrying out the provisions of the bill.

Although the implementation of the bill could cost up to $0.5 million annually, it most likely would be much less than this amount. Further, the associated costs would not be a net increase in budget outlays. This is based on the fact that the requirements of the bill would be carried out by existing Department of Agriculture personnel within existing statistical reporting systems. Likewise the analysis and reporting

required by the bill would be done within existing authorities. Most of the costs are fixed costs of the existing system. While it would be appropriate to allocate these costs to the new program, the costs will exist regardless of whether the bill is enacted.

In addition, once the data collection forms and reporting system are established, the annual cost in carrying out the provisions of the bill would drop substantially after the first year.

II.

The committee estimate is in accord with the cost estimate provided by the Congressional Budget Office in a letter to Chairman Talmadge dated August 8, 1978. The letter reads as follows:

CONGRESSIONAL BUDGET OFFICE,
U.C. CONGRESS,
Washington, D.C., August 8, 1978.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the Agricultural Foreign Investment Information Act of 1978, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry, August 8, 1978.

Based on this review, it appears that implementation of this bill will cost the Government approximately $500,000 per year, beginning in fiscal year 1979.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

APPENDIX

Issue Brief on Foreign Investment in U.S. Farmland

(By Kenneth Cook, Environmental and Natural Resources Policy Division, The Library of Congress)

ISSUE DEFINITION

Press accounts in recent months have reported a marked upswing in foreign investment in U.S. farmland. Charges have been made that foreign investors are buying up to half of all farmland which comes onto the market, and that they are paying higher than normal market prices, thereby pushing land values beyond the reach of small family farmers. Deterioration of rural communities and natural resources are also cited as possible negative effects. Other observers feel foreign investment in farmland remains insignificant.

A recent GAO study indicated that existing information does not shed much light on the magnitude, location, or implication of foreign investments in farmland. Several additional studies are underway through the authority of the International Investment Survey Act of 1976 (Public Law 94–472), and additional information may be available within the next year. Congressional action includes hearings and legislative measures calling for completion of planned studies or provisions for new ones; registration of foreign investors; or outright restrictions on foreign purchase of U.S. farmland.

BACKGROUND AND POLICY ANALYSIS

By any measure, farm real estate is an excellent investment. The average price of U.S. farmland has doubled in the past 5 years. In 1972, the average price for an acre of farmland in the 48 continguous States was $216. By early 1977 the figure had reached $452, an increase of 109 percent. The national average price has jumped by as much as 17 percent per year (1977), and in the Corn Belt and Lake States yearly increases have ranged from 20 to 40 percent. An acre of land cost an average of $1,071 in the Corn Belt last year. Land prices have risen so rapidly that real estate taxes per $100 value have declined in the United States as a whole over the past decade.

This dramatic escalation in farm real estate values was preceded by several decades of steadily increasing prices. Between 1967 and 1977, the compound average rate of increase was 10.4 percent per year, and the average farmland prices have not shown a year-to-year decline since 1955. As is evident from table I, farm real estate has been a much more stable investment than common stocks in recent years.

TABLE I.—INDEXES OF COMMON STOCK PRICES AND U.S. FARM REAL ESTATE VALUES, 1970-76
(1970=100)

	Common stock	Farm real estate
1971	119	10
1972	132	11
1973	126	12
1974	96	14
1975	100	17
1976	120	19

Both foreign and domestic investors have been attracted by the magnitude and stability of appreciation in land values, but the farm real estate market is a limited one. The United States has slightly more than 1 billion acres of private farmland, but only a fraction—2 to 3 percent—normally comes on the market in any one year. Even then, it is most often purchased by existing farmers. Between 55 and 63 percent of the tracts offered for sale are purchased by farmers to enlarge their operations. In 1977, tenants, owner operators, and retired farmers combined purchased two-thirds of the acreage sold. Local nonfarmers purchase 10 percent of the transferred acres, while absentee owners accounted for 15 percent. The value of annual land sales averaged $11 billion between 1971 and 1977.

U.S. farmers purchase land for two general reasons: to obtain long-term profit through capital appreciation of land values; and to expand operations to increase annual farm operating returns. Recent press accounts indicate that nonresident alien investors may have other incentives. High quality land in Europe sells for 50 to 100 percent more than comparable land in the United States, and the large tracts preferred by investors are reportedly difficult to assemble. Any weakening of the U.S. dollar makes American farmland even more attractive. Tax law and rent controls vary in restrictiveness throughout Europe, but are generally viewed as being more favorable for landowners in the United States. Finally, many wealthy Europeans seem to fear that political instability in their own nations may eventually lead to nationalization of private property. They seek a haven for their capital in U.S. farmland, and some are reportedly considering North America as a future home.

These same press reports have indicated that nonresident aliens have been actively buying U.S. farmland in the last few years. In most cases the "trend" is documented by citations of certain large foreign purchases: a 27,000 acre cattle ranch in Louisiana bought by Italians; a German purchase of 1,013 acres of Iowa farmland; a 5,200 acre California vegetable farm sold to a European holding company, et cetera. Substantial as the reported sales may be, they form but a fraction of U.S. farm real estate transfers. Case studies such as these are more useful for describing the locale of foreign purchases than their national magnitude and implications.

Some estimates of nonresident alien investment for the entire United States have been made. Most place the value of foreign purchases of farmland in the range of $800 million to $1 billion for 1977, and project similar investment levels for 1978. Assuming the $1 billion estimate is correct for 1977, this would amount to 6.6 percent of the

total value of farmland sold in the United States that year. The fact is, there are no reliable data on U.S. land ownership, foreign or domestic, by which to assess the accuracy of these estimates.

IMPLICATIONS OF FOREIGN INVESTMENT

A number of undesirable consequences have been attributed to foreign investments in U.S. farmland. Foreign investors, it is asserted, frequently pay more than the prevailing market price for land, and may thus inflate land prices beyond the reach of small family farmers. Concern is also expressed that significant foreign ownership could compromise U.S. control over food production, with possible adverse affects on domestic food prices and international trade and relations. Fears have been expressed that foreign investments may be followed by immigration, intensified job competition, and other undesirable effects. Finally, it has been charged that foreign investors, as absentee owners, would neglect local community activities and responsibilities, would not be inclined to utilize local labor or inputs supplied by nearby merchants, and would either abuse farmland through overuse or leave it idle for purely speculative gain.

Counter arguments generally emphasize the limited availability of land for foreign investors. Whether nonresident aliens consistently pay higher prices for land has yet to be established, and even if they do, the volume purchased is so small its impact on overall prices is slight. Active bidding by U.S. farmers and other domestic investors is considered the most important determinant of real estate prices. Nor do certain experts foresee foreign ownership so extensive as to jeopardize U.S. food supplies or cause large populations influxes. Rather, they view foreign buyers as other absentee owners, who generally turn over management of the farm to local operators, and who utilize local labor and inputs. Finally, it is often pointed out that U.S. investments abroad far outweigh foreign investments here. Restrictions on alien investment could thus have economic or political repercussions.

Until more information has been gathered on the magnitude, location, and characteristics of foreign purchases and their subsequent use, we will have no real way to evaluate these implications.

DATA ON FOREIGN OWNERSHIP AND PURCHASES

The only recent national data on foreign ownership of farmland are found in a 1975 survey conducted by the Department of Commerce. The survey covered 6,000 foreign firms and individuals with direct investments in the United States. Only those firms and individuals which owned 200 or more acres of land were required to report. The 340 entities which reported such holdings had combined ownership of 4.9 million acres. An additional 62.8 million acres were reported as leased by foreigners through the same survey. According to a recent USDA report, these estimates may be on the low side because owners of less than 200 acres were not included, and because investors buying through small brokers may have been omitted. On the other hand, the 4.9 million acre estimate includes a sizable amount of offshore and other nonfarmland holdings. "We have no accurate way of knowing

how these factors net out," noted the USDA report. If the estimates are accurate, nonresident aliens owned less than half of 1 percent of the total U.S. land in farms in 1975.

Accurate information on foreign investment in land may never be obtained. Existing sources do not generally require identification of beneficial owners of land. The Census of Agriculture enumerates farm operations, not farm ownerships, and does not distinguish the citizenship of operators. Federal censuses, per se, do not identify specific persons or organizations, but report aggregated statistics. Deed records of local governments may list trusts or nominees without revealing actual owners, and though tax records generally indicate the acreage and value of taxed land, the taxpayers are not always the owners. Moreover, these sources are scattered in local offices throughout the country (3,600 deeds offices, 6,500 assessing offices), and are not organized in a consistent manner.

Several efforts are underway to improve the information on foreign ownership of farm real estate. The Economics, Statistics and Cooperatives Service (ESCS) of USDA is studying a number of methods for gathering ownership data. According to the Department, the study "will examine such problems as the means by which ownership identity can be cloaked; the usefulness of public title and tax records in providing aggregative data; the adequacy, timeliness, and accuracy of various public and private sources of information; and comparable methods of reporting in other countries." The study should be completed in late 1979.

ESCS is also conducting the resource economic survey of ownership. From a sample of 50,000 places, this benchmark survey will focus on land ownership, residence, and citizenship. It will not reveal beneficial owners where trusts, nominees, or other stand-ins obscure it. Some results of this survey will be available in late 1978.

Three agencies within the Department of Commerce have efforts underway relating to foreign investment in U.S. farmland. The Office of Foreign Investment in the United States is seeking to identify on a continuing basis inbound foreign investment of all types, including agricultural investment; the Bureau of Economic Analysis plans to require registration of all nonresident alien firms and individuals owning or leasing 200 or more acres of land (including farmland); the Bureau of the Census is seeking information on foreign ownership through the 1979 Census of Agriculture.

CURRENT FEDERAL LEGISLATION

The 1975 Commerce Department study was authorized by the Foreign Investment Study Act of 1974 (Public Law 93–479). The act called for a "comprehensive, overall study of foreign direct and portfolio investments in the United States." Agriculture was one of many sectors studied.

Authority for such investigations expired in 1976 with the submission of the final report, "Foreign Direct Investment in the United States" (see references). To renew and expand the authority, Congress enacted the International Investment Survey Act of 1976 (Public Law 94–472). The 1976 law directs the President to establish a regu-

lar, comprehensive system for collection of data on a broad range of foreign investment activities and their effects. Section 4(d) states:

> The President shall conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system and shall submit his findings and conclusions to the Congress not later than 2 years after the enactment of this act.

The ESCS (USDA) study of data collection methods, as well as the Commerce Department activities, are being conducted under the authority of the 1976 act.

1978 GAO REPORT ON FOREIGN OWNERSHIP OF U.S. FARMLAND

At the request of the chairman of the Senate Committee on Agriculture, Nutrition and Forestry, the General Accounting Office (GAO) conducted a study of ownership of farmland by nonresident aliens. In the spring of 1978 the GAO study team requested information from each State's Governor on existing State laws and the importance of the issue in each State; visited six States to consult with agriculturalists and review State records on registered corporations; visited 25 counties to interview officials and examine local land records as potential data sources; and discussed foreign investment with Federal officials and congressional staff members.

On June 12, 1978, GAO released a report entitled "Foreign Ownership of U.S. Farmland—Much Concern, Little Data" (CER–78–132). The major conclusions of the study are as follows:

State laws and data

GAO determined that as of May 1978, 25 States had laws placing some restriction on alien ownership of U.S. farmland, 9 of which had general prohibitions or major restrictions on such ownership. With respect to the effectiveness of these State statutes, GAO concluded "In the aggregate, State laws do not significantly inhibit foreign ownership of land."

GAO also found that few States had data on foreign ownership of farmland, and only two (Iowa and Minnesota) require nonresident aliens to file annual reports on their holdings. The report cited Iowa data showing 23 nonresident aliens owned 7,000 acres of farmland in the State, about 0.02 percent of the State total. Approximately 28,200 acres of Minnesota's 30 million acres were owned or leased directly or indirectly by nonresident aliens, according to State reports. This amounted to less than one-tenth of 1 percent of Minnesota's farmland. GAO concluded that the data it found were not adequate for determining the situation in the nation as a whole.

The study also polled State Governors on their perceptions of the gravity of the foreign investor situation. About 36 percent stated it was not an actual or potential problem, with 20 percent expressing the opinion it could become a problem in the future. Only 4 percent stated foreign investment in their State was a problem at this time, and 22 percent either felt information was inadequate for judgment, or failed to respond.

County level data

After visiting 25 counties in 5 states, GAO concluded that county level public records were not a very useful source of information to determine the extent of foreign holdings. The inadequacies of county land and tax assessor records, corporation registrations, and records of the ASCS (Agricultural Stabilization and Conservation Service/USDA) and Federal Land Bank, were detailed in the report. Working on tips supplied oy knowledgeable county personnel, and using an assortment of the public records listed above, GAO made rather rough estimates of foreign holdings in each of the counties. The results of the investigation are given in table II (excerpted from the GAO report).

TABLE II.—GAO ESTIMATES OF FOREIGN HOLDINGS IN SELECTED STATES AND COUNTRIES

State	Number of counties	Total farmland acres in counties	Information indicates foreign ownership	
			Number of acres	Percent of total acres
California	3	7, 367, 730	8, 786	0.1
Georgia	11	1, 611, 010	24, 239	1.5
Kansas	3	771, 000	2, 678	.3
Missouri	3	1, 055, 143	9, 013	.8
Oklahoma	5	5, 342, 872	0	0
Total	25	16, 147, 755	44, 716	.3

Impact of Foreign Investments on Land Prices

GAO investigated in a limited way the claim that nonresident aliens were inflating land values by offering prices well above prevailing market levels. The report cited instances in Georgia where foreign investors appeared to be paying as much as $200 per acre more than the prevailing market price for land. Local officials and businessmen in California and Kansas stated that foreigners were "overpaying" by $200 to $400 per acre, but GAO could not substantiate the claims. In one county in Kansas, a foreign investor paid $40 less than the average price for comparable land sold to local farmers.

Based on the data it acquired or developed, GAO could not determine whether prices paid by foreign investors "were considerably higher or lower than prevailing market prices for comparable property" in the locations examined.

Recommendations

GAO made only one specific recommendation, namely that the Department of Commerce separately identify farmland in its effort to designate alien firms and individual owning or leasing 200 acres or more of U.S. land. GAO also described a number of possible approaches to obtaining information on nonresident alien investment and enumerated pros and cons for each:

1. Aliens could be required to register their citizenship status as a condition for receiving benefits of Federal rural/agricultural programs.

2. For new purchases, county level records of alien status and the acreage purchased could be initiated. It would then be fed to a central Federal agency for tabulation and reporting.

3. Real estate brokers and exchanges could be required to report any direct or indirect acquisitions of land by nonresident aliens.
4. Surveys of ownership could be conducted periodically.
5. Legislation could be enacted requiring nationwide registration of foreign owners of U.S. farmland.

Senator Talmadge, who requested the report, asked GAO to expand the analysis to include additional States and data.

LEGAL ISSUES PERTAINING TO FEDERAL RESTRICTIONS

As public concern has increased, demands have been made for Federal legislation to restrict foreign investment in agricultural land. Two recent CRS analyses examined some legal questions such legislation might raise (see References).

Citing the Federal powers over naturalization of aliens, regulation of interstate and foreign commerce, and provision for national defense, the analysis concluded that there was a significant legal basis for Federal restrictions on foreign investments. With respect to the affect of Federal restrictions on State laws, one study stated:

> It would appear that if the Federal Government legislatively deprived foreign persons of the power to own or purchase agricultural land, the extent of preemption would depend in part upon the nature of the Federal law. If the Federal law expressly intended to preempt the field, even more strict State laws would be invalidated. If it did not attempt to preempt the field, only less strict State laws would be invalidated.

U.S. international treaties pose another possible problem. A second CRS study noted "it would appear that new Federal legislations restricting the rights of aliens to own property in the United States might conflict with present treaties but would not be invalidated because of such conflicts. State laws restricting the rights of aliens to own, devise, or inherit property, however, might not only conflict with existing Federal treaties but also be invalidated because of such conflict."

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Calendar No. 995

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1073

INTERNATIONAL BANKING ACT OF 1978

REPORT

OF THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

H.R. 10899

AUGUST 8 (legislative day, MAY 17), 1978.—Ordered to be printed

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INTERNATIONAL BANKING ACT OF 1978

AUGUST 8 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MCINTYRE, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

REPORT

[To accompany H.R. 10899]

The Committee on Banking, Housing, and Urban Affairs, to which was referred the bill (H.R. 10899) to provide for Federal regulation of participation by foreign banks in domestic financial markets, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

HISTORY OF THE LEGISLATION

The first comprehensive study on the activities of foreign banks in the United States was undertaken by the Joint Economic Committee in 1966. That study concluded that foreign banks experienced certain advantages and disadvantages due to disparate State and Federal bank regulation, because each State adopted its own regulatory posture with respect to foreign-owned banking institutions and because Federal bank regulation came into play only when foreign banks entered the U.S. market in subsidiary form. The study resulted in various bills, none of which was ever acted upon.

In 1972, the Federal Reserve created a Steering Committee on International Banking headed by Board Vice Chairman George Mitchell. From the recommendations of the Steering Committee came S. 958, the Foreign Bank Act of 1975, which was introduced by request of the Federal Reserve on March 5, 1975. The Subcommittee on Financial Institutions held hearings on S. 958 on January 28–30, 1976.

Thereafter, H.R. 13211, the International Banking Act of 1976, passed the House of Representatives on July 29, 1976. The Subcommittee on Financial Institutions held a hearing on H.R. 13211 on August 31, 1976, but no further Senate action was taken on the bill prior to the adjournment of the 94th Congress.

On April 7, 1978, the House of Representatives passed H.R. 10899, the International Banking Act of 1978. The Subcommittee on Financial Institutions held a hearing on H.R. 10899 on June 21, 1978, its third hearing on related legislation, receiving testimony from the Federal Reserve Board, Department of the Treasury, Comptroller of the Currency, Federal Deposit Insurance Corporation, and representatives of State bank supervisors, domestic U.S. banks and foreign banks doing business in the United States.

On July 26, 1978, the full Banking Committee met in executive session and unanimously ordered H.R. 10899 favorably reported by a voice vote, with an amendment in the nature of a substitute.

Need for Legislation

The growth in number and size of foreign banking operations, and their ever-increasing importance to the structure of the banking system and to the functioning of money and credit markets has created the need for both Federal monetary policy controls and for a Federal presence in the regulation and supervision of their activities in the United States. At the end of 1973, there were about 60 foreign banks operating banking offices in the United States with combined assets of about $37 billion. By the middle of 1978, 122 foreign banks were operating in the United States with combined assets of $90 billion. The committee notes that, as of April, U.S. offices of foreign banks had more than $26 billion in commercial and industrial loans. This amount equals about 20 percent of similar loans by large banks that report weekly to the Federal Reserve. Foreign banks in this country cannot, therefore, be characterized as specialized institutions engaged principally in foreign trade financing on the periphery of our banking system.

The general policy of the United States with regard to foreign enterprises doing business in the United States has been one of national treatment. Under this policy foreign enterprises operating in the host country are treated as competitive equals with their domestic counterparts. There is, at this time, no uniform national policy concerning foreign banking operation in this country. As a result, foreign banks enjoy many competitive advantages over our domestic banks. This bill establishes the principle of parity of treatment between foreign and domestic banks in like circumstances.

The climate in which this bill has been considered is one of relative calm. Foreign banks doing business in the United States have behaved in a responsible manner, and their presence here has been a benefit to the banking industry as a whole. Enactment of a rational framework of Federal regulation at this time is appropriate and will serve to avoid future problems while enhancing the competitive environment.

Explanation of the Bill

Definitions

Section 1 entitles the bill the International Banking Act of 1978 and sets forth certain key definitions used throughout the bill. Among the most important are the definitions of "agency", "branch", "foreign bank", and "commercial lending company". Branches and agencies of

foreign banks are offices of foreign banks in the United States that engage generally in the same types of wholesale commercial banking activities engaged in by large domestic banks, except that agencies cannot accept deposits. Agencies can, however, accept credit balances incidental to the exercise of their lawful banking powers. Credit balances cannot be drawn against as a commercial or personal checking account, nor can they be used to attract idle domestic funds for investment purposes.

The term "commercial lending companies" is intended to refer to investment companies organized under article XII of the New York State Banking Law, and any similar corporations that may be organized under the laws of other States. These corporations are given corporate powers sufficiently broad to enable them to conduct commercial banking operations of an international and wholesale nature, except like agencies, they are restricted to accepting credit balances. They are included in various provisions of the bill to insure that the requirements imposed on agencies cannot be evaded through the incorporation or acquisition of such corporations.

The definition of "foreign bank" includes banks organized in foreign countries, the Commonwealth of Puerto Rico, U.S. territories, and Guam, American Samoa, and the Virgin Islands. The definition recognizes that if a foreign institution is considered a banking organization overseas, even if it may engage overseas in activities not considered to be banking activities in the United States, then it should be considered a foreign bank for purposes of this bill.

NATIONAL BANKS

In furtherance of the dual banking system, section 2 of the bill amends section 5146 of the Revised Statutes (12 U.S.C. 72) to permit the Comptroller of the Currency to waive the requirement that all directors of national banks be U.S. citizens. Under the section, a minority of the directors of a national bank which is an affiliate or subsidiary of a foreign bank may be non-U.S. citizens with the Comptroller's approval. This will facilitate foreign bank chartering and acquisition of national bank subsidiaries, without unduly compromising the principle of local ownership and control.

AMENDMENTS TO THE EDGE ACT

Section 3 of the bill contains the first revisions to section 25(a) of the Federal Reserve Act since the section's enactment on December 24, 1919. Popularly known as the Edge Act in honor of its principal congressional architect and sponsor, Senator Walter E. Edge of New Jersey, section 25(a) of the Federal Reserve Act provides for the Federal chartering of corporations to be organized for the purpose of engaging in international or foreign banking or other international or foreign financial operations.

The legislative history of the Edge Act indicates three principal congressional purposes in providing for the chartering of Edge Act corporations. First, it was intended that these corporations play a major role in the financing of U.S. exports. The report of the House of Representatives (H. Rept. No. 408, 66th Cong., 1st sess, 1919–1920, p. 3) states—

> it is hoped that as a result of the passage of this bill * * * much of our great foreign trade can be retained to the benefit of American manufacturers, farmers, cattle growers and merchants.

Moreover, it was made clear that Congress intended the Act—

> to aid the small manufacturer whom Congress tried to help a year to two ago when it enacted the Webb (Pomerene) Act. (Remarks of Senator Edge at 1919 Congressional Record page 3421).

Second, the new corporations were to be given the opportunity and means of competing with similar foreign institutions. These corporations should be "prevented from becoming monopolies and should at the same time not be hampered in their competition with foreign banking institutions" (H. Rept. No. 408, p. 3).

Third, Congress wanted to strengthen Government control and supervision of international banks; "control through agreement is plainly not as satisfactory as control through incorporation under a Federal act" (H. Rept. No. 408, p. 2).

Control by the Federal Reserve was formally established with the issuance of 12 CFR part 211, Regulation K. The national purpose, as seen by the Federal Reserve, is to give Edge Act corporations—

> powers sufficiently broad to enable them to compete effectively with similar foreign-owned institutions and to afford to the U.S. exporter and importer * * * at all times a means of financing international trade (12 CFR 211.1 (b)(1)).

While Edge Act corporations have no doubt assisted in the financing of U.S. exports, the antiquated statutory and regulatory framework under which they must conduct their operations has hampered their usefulness in this regard and has put them at competitive disadvantages relative to foreign-owned banking institutions. These disadvantages were summarized at length in a statement presented by Mr. Richard Melville at an April 5 hearing on U.S. export policy before the Subcommittee on International Finance, and in several other statements presented to the Subcommittee on Financial Institutions in its hearings on H.R. 10899.

As passed by the House, section 3 of H.R. 10899 focused only on removing certain statutory provisions in the Edge Act that discriminate against foreign banks. The committee substituted for the House provision a more comprehensive section 3 that also defines more clearly the national purposes behind Edge Act corporations, and which eliminates or modifies certain statutory provisions that handicap Edge Act corporations in providing international banking services to U.S. customers and in competing with foreign-owned banking institutions.

Subsection (a) of section 3 states the three principal objectives of the section: Elimination or modification of provisions in the Edge Act which discriminate against foreign-owned banking institutions, which disadvantage or unnecessarily restrict or limit Edge Act corporations in competing with foreign-owned banking institutions in the United States and abroad, or which impede the attainment of congressional purposes of the Edge Act as amended by subsection (b). The Board is

required to revise its regulations to eliminate or modify any regulatory restrictions not required by the statute, which discriminate against foreign-owned institutions, disadvantage or unnecessarily restrict or limit Edge Act corporations in competing with foreign-owned institutions, or impede the attainment of the policy objectives set forth in the Edge Act as amended by subsection (b). The Board is required to issue its revised regulations within 150 days after date of enactment, and to adopt final regulations to be effective not later than 120 days after they are first issued. Based on statements presented to the committee, among those regulations which should be carefully reviewed in this process are those pertaining to limitations on aggregate liabilities, use of loan proceeds, employment of funds in the money market, lending limits, receipt of deposits from domestic concerns, and limitations on certain guarantees issued. The committee also believes that the Board should insure that its regulations in this area are consistently and uniformly applied by the various Federal Reserve banks.

Subsection (b) amends the Edge Act to include a declaration of congressional policy which is to serve as guidance to future regulatory actions and interpretations by the Board of the Edge Act. The purposes set forth recognize the importance of establishing international banking facilities throughout the country in promoting international trade, especially U.S. exports; the need to foster Edge Act ownership by regional and smaller banks, in particular, to bring trade financing opportunities to small farms and businesses; to stimulate export opportunities and competition in international finance, the need to maintain competitive equality between Edge Act corporations and similar foreign-owned banking institutions in the United States and abroad; and the need to interpret the act in the light of changing economic conditions and banking environments, with a requirement that regulations be reviewed at least once every 5 years. The emphasis is on financing exports; and that is where it should be in order to establish and maintain a sound U.S. trade position.

Subsection (c) eliminates the requirement that all Edge Act corporation directors be U.S. citizens. This provision, in conjunction with subsection (f), will enable foreign-owned banking institutions to own Edge Act corporations, and in so doing will enable them to penetrate new trade markets in the United States. This should assist in the spread of international banking and finance facilities throughout the country, stimulating competition and new export opportunities.

Subsection (d) eliminates two separate provisions in the Edge Act which prevent such corporations from having liabilities outstanding at any one time upon their debentures, bonds, or promissory notes in excess of ten times their paid-in capital and surplus. This restrictive leverage ratio, especially as it has been made more severe by an even more restrictive regulatory definition, has placed Edge Act corporations at a competitive disadvantage against their commercial bank and foreign bank agency and branch counterparts. The statutory limit was originally included in the act because it was thought that such corporations would issue debentures or bonds on foreign credits and sell them to the American public. That has not been the case. Edge Act corporations are all owned by banking institutions. Thus, the committee could see no need to put this special limit on Edge Act corporations; they should be subject to the same types of limits that apply to other

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banking institutions with which they compete. Due, however, to the committee's concern over the adequate capitalization of all banking institutions in the United States, the committee in subsection (h) has required the Board in its annual report to give special attention to the effect of this amendment on the capitalization and activities of such corporations, commercial banks, and the banking system.

Subsection (e) would eliminate a mandatory 10-percent reserve requirement imposed on Edge Act corporation deposits and provide instead that Edge Act corporations be subject to the same requirements that apply to member banks. Again, there is no reason for this special limitation and it serves only to put Edge Act corporations at a further cost disadvantage with their competitors.

Subsection (f) would modify the Edge Act to permit foreign-owned banking institutions to acquire majority stock control of such corporations. The present provision prohibiting such majority control dates from an earlier period when the Congress was concerned that U.S. banking organizations lacked the knowledge and wherewithal to compete with the great banking and trading houses of Europe. Such fears no longer reflect reality and the present provision serves only to restrict unnecessarily foreign bank entry into new international trade markets within the United States.

Subsection (g) requires the Federal Reserve Board to report to the Congress not later than 270 days after the date of enactment of this bill on its recommendations with respect to permitting Edge Act corporations, and their sister State corporations operating under section 25 of the Federal Reserve Act, to become member banks. Membership could assist in the formation of independent Edge Act corporations, in particular by non-bank concerns, since it would enhance their standing in the banking and trade community. There are, however, questions—such as access to borrowing and discount facilities—which have to be carefully reviewed before removing the existing prohibition. The reporting period coincides with the Board's period for revising its regulations, and the committee expects the Board to seek public comment on this issue within the regulatory process.

The committee believes that section 3 constitutes an important step in rationalizing our trade and financing laws, and notes that it received strong support from both bank regulators and the banking community.

FEDERAL BRANCHES AND AGENCIES

One of the essential features of the U.S. banking system has been its duality—the option of State or Federal charter for the conduct of a banking business. Until now, all foreign banks operating branches or agencies in the United States have done so under State authority. Section 4 of the bill for the first time gives foreign banks the dual-banking system option of establishing Federal branches and agencies.

Section 4 provides that, subject to the approval of the Comptroller of the Currency, a foreign bank may establish a Federal branch or agency in any State where it does not already operate a State-licensed branch or agency, and in which the establishment of a branch or agency is not prohibited by State law. This insures that in States where foreign banks are welcome, they will have a State-Federal option. In furtherance of this option, foreign banks may also convert State branches, agencies, or commercial lending companies into Federal branches or agencies.

The section establishes a comprehensive regulatory and supervisory framework for Federal branches and agencies that will be administered by the Comptroller of the Currency. In general, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges, and subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location. Because Federal branches and agencies are offices of foreign banks and not separately incorporated entities, the section contains several provisions that conform regulation to this legal and operational reality. Among the most significant are the following: (1) limitations or restrictions based on the capital stock and surplus of national bank shall, when applied to a Federal branch or agency, be deemed to refer to the capital stock or surplus of its parent foreign bank; (2) branches and agencies will have to satisfy capitalization requirements through various deposit arrangements; and (3) should a parent foreign bank of a Federal branch or agency be threatened with insolvency, mechanisms are provided to protect creditors and depositors of Federal branches and agencies.

Section 4 also contains several provisions designed to establish parity with State branches and agencies. For example, Federal agencies cannot accept deposits but can maintain credit balances; a foreign bank cannot maintain both Federal branches and agencies in the same State, since States permit only one form of organization; and Federal branches and agencies within States are subject to the branching restrictions of the McFadden Act. This legislation will permit foreign banks to establish Federal branches or agencies in the District of Columbia.

The Comptroller of the Currency is given primary examination, regulatory, and supervisory authority over Federal branches and agencies.

INTERSTATE BANKING

As of April 1978, there were 63 foreign banks operating banking facilities in more than one State. Thirty-one of these institutions were operating in three or more States, through agencies, branches, and subsidiaries.

There are several reasons for this multistate expansion of foreign banks. First, foreign bank branches and agencies are not subject to the strictures of the McFadden Act and Bank Holding Company Act which effectively prevent domestic banking organizations from establishing full-service banking facilities in more than one State. Second, a growing number of States, in an effort to attract foreign investment and encourage the development of regional international banking centers, have enacted specific legislation that permits foreign bank entry, irrespective of whether foreign banks have facilities in other States. Third, increasing numbers of foreign banks are entering and expanding within the United States, not only to engage in the international banking and financing activities traditional of banks in non-indigenous country markets, but also to engage in domestic commercial and industrial loans, money market operations, and, in some cases, retail banking.

Testimony and statements presented to the Subcommittee on Financial Institutions revealed that this growing multistate presence of foreign banks has become the single most controversial aspect of

their operations in the United States. The nub of this controversy is competitive equality between domestic and foreign banks; however, other important issues of competitive equality between States and discriminatory treatment of domestic banks abroad are also involved.

On the central issue of competitive equality, it is clear that foreign banks do enjoy privileges not extended to domestic banks under our laws—the ability to receive deposits, make loans, and pay checks at banking offices located in several States. The extent to which this opportunity gives foreign banks a competitive advantage over their domestic counterparts is a matter of some earnest dispute. Several witnesses testified to the effect that when one takes into consideration the multistate Edge Act, bank holding company, loan production office, and correspondent banking activities of domestic banking organizations, especially the larger organizations, any advantage that foreign banks might enjoy through banking facilities in several States is largely illusory. While it cannot be gainsaid that the avenues of interstate activity open to domestic banking organizations are significant and have greatly expanded their ability to compete across State lines, the essence of banking is the ability to receive deposits, and it is in this that foreign banks do enjoy a growing, significant interstate advantage over domestic banking organizations, which cannot receive domestic bank deposits outside of their home State. The resulting unfair competitive effects on domestic banking organizations were described in a statement presented by the Association of Reserve City Bankers:

> H.R. 10899, as passed by the House of Representatives, would permit foreign banks to expand their interstate banking operations while domestic banks would remain subject to the restrictions on interstate branching set down by the McFadden Act. Foreign Banks are primarily engaged in wholesale, not retail banking. Their customers are generally large corporations requiring a full line of services in various States of the United States and in many foreign countries. Many of these corporations have switched their business to branches of foreign banks because of the latter's ability to provide all of the corporations' domestic banking requirements in several States. If the corporation has overseas business, these large foreign banks usually have branches in these countries to serve them. The fact that a corporation can transact its entire banking business with one bank is an important reason foreign banks are attracting U.S. corporate customers.

These effects can only be multiplied when, as provided under this bill, Federal deposit insurance is made available to branches of foreign banks, and at least some begin to pursue retail deposits as well in several States.

The issue of competitive equality between the States was presented by Mr. E. D. Dunn, Commissioner of Banking and Finance for the State of Georgia and president of the Conference of State Bank Supervisors, in his testimony before the Subcommittee on Financial Institutions:

> The conference also supports section 5 of this House-passed bill which would permit a State to retain the authority it now has to invite into its borders a foreign-owned bank branch that might also be operating in another State. It is in our national interests to do this. A one-State limit on foreign bank branches (which was proposed in earlier versions of this bill) would result in a virtual monopoly of foreign banking activities in this country by New York and California, to the detriment of other States which might want to increase their roles in international banking matters. The reason is very simple. New York and California, as our country's leading money centers, would be by far the most compelling areas of operation for foreign banking institutions if faced with a one-State limitation for their presence.

The committee agrees that it would be unwise in attempting to establish parity between domestic and foreign banks to impose restrictions so rigid that they would confine foreign banks to a single State of-operations, and consequently reduce foreign capital inflows and the development of international banking centers throughout the country. Such a solution would also be inconsistent with this Nation's dual-banking system which has served local, national, and international credit needs well throughout our history.

Completing the trilogy of controversial issues that relate to interstate branching, is the need to frame U.S. policy in light of the policies of foreign governments toward our own banking institutions abroad. Information presented to the committee revealed that there are major restrictions imposed by foreign governments that affect the competitiveness of U.S. banks abroad, particularly in Japan. That U.S. banks are not in all cases afforded national treatment abroad presents a compelling reason not to grant foreign banks additional competitive advantages over domestic banks in the United States as well. Aside from multiplying the disadvantages imposed on our own domestic banks, and on our own exports, such a policy would also remove any incentive for foreign governments to cease discriminatory restrictions against our banks abroad. The committee thus believes national treatment is the most appropriate policy to adopt with respect to foreign banks in the United States, and this means some measure of basic competitive equality on interstate branching. As discussed more fully in the section of this report concerning section 9 of the bill, the committee believes strongly that the United States, in light of the substantial privileges enjoyed by foreign banks in the United States should seek to secure national treatment for our banks abroad as well.

To these specific items of controversy must be added the crucial issue of the effect of multistate foreign bank operations on the structure of our domestic banking system. As Chairman Miller of the Federal Reserve indicated in his testimony, opinions differ widely about the wisdom of existing national policy that bars domestic banking organizations from operating full-scale offices across State lines. To exempt foreign banking institutions from this policy while continuing to restrict domestic banks is, however, incongruous and could have untoward effects on the concentration of banking resources in the United States and would be fundamentally destructive of our dual

banking system by superimposing a third tier of priviledged foreign chartered banks over State and Federally chartered banks. Of the 100 largest banks in the world, each with assets of over $7.9 billion, 85 are foreign-owned with only 4 U.S. banks in the top 20. To permit the world's largest banks to come to the United States and, in effect, establish full-service banking offices throughout the country could portend a national banking system in which only the largest domestic and foreign banks could compete. Of particular concern is that under the present system a large domestic bank, if acquired by a foreign bank, could overnight be made the hub of an interstate banking network. Issues of such national and international significance should not be decided through the back door of allowing unrestricted branching by foreign banks, but rather should be met and analyzed directly which is the purpose of the study mandated by section 14 of the bill.

Assimilating these concerns and the strong and sound arguments made by those on the differing issues, the committee has amended section 5 of the bill in a way that it believes equitably reconciles the interests and concerns of Federal and State officials, and domestic and foreign banks. It would be unwise for any one side to prevail completely on this issue, for it would mean that at least one significant interest of the United States is likely to be defeated. Thus, the committee has struck a compromise that it believes will establish the general rules for future competitive equality between domestic and foreign banks, preserve and enhance the ability of the States to attract foreign capital and develop international banking centers, and give the United States some leverage to secure more equitable national treatment for U.S. banks abroad.

Under section 5(a) foreign banks, as now, and as under the House-passed bill, would be able to establish branch or agency offices in any State where this is permissible. The decision to attract foreign bank entry is, as now, left to the individual States. However, in the case of a branch to be established and operated outside of a foreign bank's home State of operations, which State would essentially be determined by the foreign bank, such branch would be able to accept such credit balances as agencies would be able to accept under relevant State and Federal law, but, with respect to deposits, would be limited to accepting the types of foreign-source and international banking and finance-related deposits permissible for international banking corporations organized under section 25(a) of the Federal Reserve Act (the Edge Act). Under section 5(b), the deposit limitations would apply only to branches for which applications had not been filed on or before July 26, 1978. Deposits subject to such limitations would not have to be insured, conforming to the existing treatment of Edge Act corporation deposits. Agencies, as now, would be unrestricted, since they cannot accept deposits. Accordingly, States that only permit agencies, such as Georgia, Florida, and Hawaii, would be unaffected by the limitation.

Section 5(a) also provides that no foreign bank may acquire any interest in a bank located outside of its home State if such a transaction would be prohibited by section 3(d) of the Bank Holding Company Act of 1956, as amended, if the foreign bank were a bank holding company, the operation of whose banking subsidiaries are principally conducted in the foreign bank's home State. This limitation

is necessary to insure that a foreign bank not evade the deposit limitations imposed on branches by establishing a subsidiary bank outside of its home State. Section 5(a) as it applies to banking subsidiaries of foreign banks is not, however, intended to change section 3(d) of the Bank Holding Company Act, which prohibits both domestic and foreign bank holding companies from having banking subsidiaries in more than one State.

The section thus affirms in Federal law the right of States to attract foreign banks and foreign investment by allowing foreign bank branches and agencies to be established in any State where permissible. Such branches and agencies could conduct the full range of banking activities necessary to develop international banking and trade opportunities, to attract foreign capital and service the international needs of their domestic and foreign customers. Local credit markets would be broadened and lending competition stimulated since foreign bank branches and agencies would be able, with appropriate State approval where necessary, to make both domestic and international commerical loans at locations throughout the country. This lending ability is a privilege not extended United States banks under United States law, but it is not a significant advantage for foreign banks, since U.S. banks have many other ways of soliciting and competing for domestic loan business.

The section meets the competitive advantage problem by narrowly focusing on the key interstate advantage enjoyed by foreign banks—the ability to accept deposits at locations in several States. Effectively, foreign banks subject to the deposit restriction would not be able to accept domestic retail deposits, certificates of deposit from domestic sources or commercial payroll-type accounts at locations in several States, although they, as U.S. banks, would be able to solicit such deposits for placement at other of their offices. This section seeks to insure that if a domestic corporation chooses a foreign bank as its lending institution, it does so not because it can obtain on the spot deposit services in several major States, an unfair competitive edge, but because it has put together the most competitive proposal. By focusing on deposit-taking only, competitive equality is achieved by not at the expense of stifling legitimate State objectives, or limiting desirable foreign bank entry.

Section 5(c) permits a foreign bank to choose its home State from among those States in which the foreign bank operates at the time of enactment or as a result of entry into additional States permitted by section 5. Although change in a home State is not prohibited, it is assumed that the Federal Reserve will provide by regulation a suitable procedure for registering with the Federal Reserve the home State and for changing it. The committee adopted this provision to minimize dislocation and to provide maximum flexibility to existing foreign bank operations. The committee intends that the Federal Reserve Board be careful in its administration of this provision to insure that the flexibility afforded in choosing a home State is not used in a manipulative manner to evade the deposit limitations imposed under the section. In particular, it would be inconsistent with the deposit limitations for a foreign bank, except to the extent that the operations involved were grandfathered, to choose a home State in such a way that it would be able to establish additional full-service deposit-taking branches or subsidiary banks in more than one State.

Foreign banks with no deposit-taking operations in the United States at the present time should have their home State determined to be the State in which they open their initial deposit-taking office.

The committee believes that the section should strengthen the dual banking system and enhance the ability of all States to attract foreign banks. To have limited foreign bank activity to one State would not have been in the national interest and would have been a serious breach of the principles of federalism. Federal banking law should, to the greatest extent possible, be limited to matters of national interest and concern, that either are not the province of the States or are beyond their ability to cognize and regulate. The section leaves each State free to decide whether and to what extent it wishes to permit foreign banks, and limits only the single activity—deposit-taking—that produces competitive disparities in the national marketplace, and then limits it only to the extent necessary to achieve parity of treatment. To do less would be an abrogation of the Congress' responsibility over interstate and foreign commerce and over the international trade and economic affairs of the country.

By setting up a coherent Federal framework, the section encourages States to attract foreign banks on equal grounds and without fear of disruption to local markets. State laws vary widely on the powers permitted foreign banks—some prohibit foreign banks altogether, others carefully circumscribe their activities in ways more stringent than that permitted under the section. Many of these limitations on foreign bank entry have derived from local competitive concerns, especially on deposit-taking. This section, by removing many of those concerns, leaves States free to compete on their desire and ability to encourage and develop international trade and investment opportunities. It does not tip the scales towards one State or another. State efforts are further well-protected by a liberal grandfather clause.

In summary, the committee believes section 5 solves the interstate banking issue in a way that balances and protects both States' rights and national interests.

FDIC INSURANCE

With regard to the issue of FDIC insurance of deposits in branches of foreign banks, several witnesses urged that such insurance be made mandatory. On the other hand, other witnesses, most notably the FDIC itself, urged that such insurance be voluntary, not mandatory, citing insufficient legal and regulatory controls over the parent foreign bank itself.

While deposit insurance may be viewed as a competitive consideration, given the costs involved, there is a general recognition that deposits in branches of foreign banks are fundamentally "wholesale" in nature. In this regard, most proponents of mandatory insurance concede that the primary concern is for the protection of the individual retail, not commercial, depositors.

Therefore, the bill provides in section 6, for the first time, for voluntary FDIC insurance of deposits in branches of foreign banks. However, in those instances where such branches do accept "retail" deposits, defined to be deposits of less than $100,000, FDIC insurance of all deposits in such branches is made mandatory.

The above requirement pertains to all Federal branches and to all State branches in States which require State-chartered banks to be insured. Only domestic deposits are subject to the insurance provisions.

AUTHORITY SUPERVISION AND EXAMINATION

Sections 6, 7, 11, and 13 of the bill establish the framework for the regulation, supervision, and examination of foreign banking activities in the United States. The bill, as passed by the House of Representatives, provides the authority to the Federal Reserve Board to establish reserve requirements for federally licensed foreign bank branches and agencies. Additionally, the Federal Reserve Board may, in consultation and cooperation with State bank supervisory authorities, establish reserve requirements for State licensed branches and agencies. This authority extends over all branches and agencies of foreign banks that have $1 billion or more in worldwide assets. Those branches and agencies for which the Federal Reserve holds reserve balances also have access to Federal Reserve discount, borrowing, and clearing facilities subject to such restrictions, limitations, and regulations as may be imposed by the Federal Reserve Board.

The committee believes that reserve-setting authority over State-licensed foreign bank branches and agencies is necessary for monetary policy purposes. At the same time the committee did not impose reserve requirements over State chartered bank subsidiaries and commercial lending companies in keeping with existing practice under the dual banking system. Almost all foreign banks doing business in the United States are large world-wide financial institutions. The reserve-setting authority provides the Federal Reserve with necessary control over inflows and outflows of funds and over domestic deposits in order to better serve U.S. monetary policy needs.

In order to insure adequate supervision of foreign bank operations within the present Federal-State regulatory framework, the bill provides that the Comptroller, the FDIC, and the States will have primary examining authority over such operations within their jurisdiction. The committee amended the House bill to provide the Federal Reserve Board with residual examining authority over all banking operations of foreign banks, including branches, agencies, commercial lending companies, and bank subsidiaries. Thus, Federal branches and agencies will be subject to examination by the Comptroller, federally insured State branches will be examined by the State agencies and by the FDIC, and non-federally-insured State branches and all State agencies and commercial lending companies will be examined by the appropriate State authorities or, if not so examined, by the Federal Reserve. All such organizations will, however, be subject to special examination by the Federal Reserve. This will provide the umbrella of one Federal agency over all domestic operations of foreign banks. It is intended that if the Federal Reserve deems it necessary to review the activities of a branch, agency or commercial lending company, the Federal Reserve, in order to avoid duplicative regulation, will make as much use as possible of relevant reports of examination made by the Comptroller, the FDIC, and the States. Moreover, the committee expects that, with regard to the examination process, the Federal bank regulatory agencies will cooperate with one another and with State banking authorities so as to develop and implement consistent and effective examination standards.

The examination authority provided to the Federal Reserve is similar to its present examination authority over bank holding companies and their subsidiaries. The Federal Reserve may examine

a holding company and all of its subsidiaries, but the Federal Reserve must make as much use as possible of reports of examination conducted by the primary regulatory authority. In the context of the International Banking Act, the Federal Reserve would have special examining powers over all such banking organizations so as to ensure full compliance with the act. While the Federal Reserve may not utilize this examining authority very often, this authority will give the Federal Reserve a tool with which it can pull together the links of a multistate banking network of a foreign bank in order to conduct a consolidated review of such bank's domestic activities. In view of the fact that a foreign bank may have a State agency, a federally insured State branch, and a Federal branch, each examined by a separate regulatory body, the committee has decided to provide the Federal Reserve with residual examining authority as a necessary adjunct to the examining powers of the other Federal agencies and of the States. The committee believes that this will not be an unnecessary imposition on foreign banks engaged in business in the United States.

Sections 6 and 11 of the House bill established the "appropriate Federal agency" with respect to issuance of cease-and-desist orders under the Federal Deposit Insurance Act. However, the relationship among the FDIC, the Board, and the Comptroller with respect to examination and enforcement was unclear. Under section 6 of the bill, it is made clear that primary enforcement authority under the Financial Institutions Supervisory Act rests with the Comptroller for Federal branches and agencies, the FDIC for foreign banks with insured branches, and the Federal Reserve for foreign banks with uninsured branches, agencies, and commercial lending companies. In addition, the Federal Reserve is given primary authority to enforce any provision of the Federal Reserve Act made applicable to any branch, agency or commercial lending company subsidiary of foreign banks by this bill, and any corrective actions it deems necessary through use of its special residual examination authority. This latter authority is not intended to supersede authority given any other Federal agency, but rather to give the Federal Reserve necessary authority to enforce its special examination authority. Thus, the bill combines to the greatest extent possible examination and supervisory authority in the same agency. Considerable overlap does, however, exist, and as indicated above, extensive consultation and cooperation will be required.

To enforce section 8 of the bill pertaining to the Bank Holding Company Act, the Federal Reserve is given the authority to issue cease-and-desist orders, under the Financial Institutions Supervisory Act, against any foreign bank or company to which subsection (a) of section 8 applies and to any nonbank subsidiary of such bank or company. This conforms to authority which the Board presently has over domestic bank holding companies and their nonbank subsidiaries.

The bill also confers on the Comptroller, the Board, and the FDIC the requisite authorizations to issue such rules, regulations, and orders as each deems necessary to carry out the provisions of and ensure compliance with this bill.

RESTRICTIONS ON NONBANKING ACTIVITIES

Section (8) of the bill provides that (1) any foreign bank maintaining a branch or agency in the U.S., (2) any foreign bank or company that controls a commercial lending company, and (3) any company of

which either of the above is a subsidiary shall be subject to the nonbanking and antitying provisions of the Bank Holding Company Act. This section is designed to insure competitive equality by allowing foreign financial institutions to expand their U.S. banking-related activities in accordance with the same standards applicable to domestic bank holding companies. While domestic activities of foreign banks are subjected to many of the requirements of the Bank Holding Company Act, the bill does not affect the type or scope of a foreign bank's nondomestic business.

In order to avoid imposing any undue burden on a foreign financial institution or affiliate of such institution which may have been lawfully engaging in or applied for approval to engage in nonbanking activities in the United States prior to the markup of this bill by the Senate Banking Committee, section 8 of the bill permanently grandfathers such activities engaged in, or applied to be engaged in, as of July 26, 1978, the date of the Committee's markup. The House-passed bill included a grandfather date of May 23, 1977, the date that the bill was introduced in the House. In view of the time elapsed since that date, the committee brought the date forward in order to provide a more equitable standard indicative of the date when foreign banks were put on notice that is was the serious intent of both Houses of Congress to approve the legislation.

Section 8 also recognizes that a transaction should be grandfathered if a foreign bank is seeking to acquire a nonbanking firm and has reached a written understanding with the selling party by July 26, 1978, the grandfather clause date. The term "binding written contract" is used in section 8(c) to preclude claims that the statute is satisfied by a vague oral agreement. The bill, however, does not require a final contract; rather, what the committee has in mind is a well-thoughtout, comprehensive agreement even though it may have in it material conditions which must be met prior to closing and which may provide for the final resolution of some issues at a later date. The committee notes that the term "binding written contract" as presented is also used in section 4(a)(2) of the Bank Holding Company Act regarding acquisition commitments of bank holding companies covered by the 1970 amendments to that act, and the committee, in using the same term here, does not intend in any manner to alter its meaning in section 4(a)(2).

While section 8(c) permanently grandfathers certain nonbanking activities of foreign banks, it also authorizes the Federal Reserve to terminate the grandfather status of any company after December 31, 1985, if it determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States. If the Federal Reserve issues a termination order, the foreign bank or foreign company involved would have 2 years in which to divest itself of shares owned in the domestic nonbanking company.

The committee adopted an amendment to section 8(c) of the bill which permits any grandfathered securities firm which is a "domestically controlled affiliate covered in 1978" to expand, merge, or diversify, notwithstanding provisions of subsection (c) which otherwise would not authorize such activities, so long as the foreign bank owner does not increase its percentage ownership in the affiliate. A "domestically controlled affilitate covered in 1978" is defined as any grandfathered firm, the majority of whose voting shares are owned by a

U.S. company or group of U.S. companies, if a regulated foreign bank or group of foreign banks owns or controls, directly or indirectly, less than 25 percent of the voting shares.

Section 8(e) of the bill amends section 2(h) of the Bank Holding Company Act which provides an exemption from the prohibitions of section 4 of that act. Section 2(h) currently permits a bank holding company, principally engaged in banking outside the United States, to own shares of any foreign company that does not do any business in the United States. Section 8(e) would permit a foreign bank holding company to own shares of a foreign nonbanking company that directly or indirectly does business in the U.S. so long as the foreign company is principally engaged in business outside the United States. If, however, the foreign nonbanking company, which is owned by the foreign bank holding company, owns shares in a U.S. company which is not engaged in the same general line of business or in business activities related to the business of the foreign nonbanking company, shares held in the U.S. company would not be eligible for the exemption provided by section 8(e).

The committee has embraced the concept that the general line of business of a U.S. nonbanking company in which a foreign bank holding company has an ownership interest through a foreign nonbanking company must be the same as or related to the business of that foreign nonbanking company. The relevant language in section 8(e) is:

> (or to shares held by such company in any company engaged in the same general line of business as the investor company or in a business related to the business of the investor company).

In adopting the language within parentheses, the committee intends to use as a model the line of business tests and categories of the Standard Industrial Classification (SIC).

SIC has been designed by the Department of Commerce and more recently by the Office of Management and Budget to classify the establishment and "kind-of-activity unit" according to the kind of economic activity in which such units are engaged within the existing structure of American industry. These classifications cover a broad range of economic activities and will be an effective measure for comparing the relationship of the nonbanking activity of the U.S. company to that of the foreign investor company. SIC is familiar to, accepted and utilized by U.S. Government agencies as a standard for classifying, promoting uniformity, and facilitating comparability of all types of economic activity. The standards of SIC will conform readily to the parenthetical language of section 8(e), thus avoiding ambiguity and uncertainty in determining whether the nonbanking activities in which the foreign bank has indirect holdings are "in the same general line of business as the investor company or in a business related to the business of its investor company."

By adopting SIC categories, Congress intends that suppliers, distributors, sales agencies, etc., be considered "related to the business of the investor company" only so long as that supplier, distributor, sales agency, etc., is engaged in the "kind of activity" which the SIC defines within that specific category.

Within the broad "major groups" established under SIC, there are narrower "kind of activity" standards. It is this narrower "kind of activity" classification, the four-digit classification, which the Congress intends to apply in adopting the "line of business" language in section 8(e).

The provisions of section 8(e) represent an expansion of the exemption contained in section 2(h) of the Bank Holding Company Act, which presently exempts from the prohibitions of section 4 only shares held by a foreign bank holding company in a foreign nonbanking company that does not do any business in the United States. The amendment to section 2(h) is also a departure from current practice under Federal Reserve Board Regulation Y (Bank Holding Companies) which, pursuant to section 4(c)(9) of the Holding Company Act, does not permit a foreign bank to own 25 percent or more of the shares of a foreign nonbanking company which is engaged in activities in the United States which are not incidental to the non-U.S. business of that foreign nonbanking company.

In expanding the exemption contained in section 2(h) of the Bank Holding Company Act, it is not the intention of the committee to restrict the Federal Reserve Board's authority to grant further exemptions under section 4(c)(9). The committee recognizes that Regulation Y currently exempts from the prohibitions of section 4 the ownership by a foreign bank holding company of less than 25 percent of the shares of a foreign nonbanking company principally engaged in business outside the United States even if that company is engaged directly or indirectly in activities in the United States, that are not incidental to the company's non-U.S. activities. Section 8(e) is not intended to affect that provision of Regulation Y.

Section 8(e) further provides that a foreign nonbanking company in which a foreign bank holding company directly or indirectly owns shares may not engage in or hold shares in a company engaged in the securities business in the United States except to the extent that such activities are permissible for a registered bank holding company.

When seeking to engage in activities which are closely related to banking and are permissible under section 4(c)(8) of the Bank Holding Company Act, section 8(e) requires a foreign nonbanking company in which a foreign bank holding company directly or indirectly owns shares to obtain the prior approval of the Federal Reserve Board. This insures that a foreign bank cannot evade the requirements of section 4(c)(8) through the use of exempt foreign subsidiaries. Furthermore, under section 8(c), no U.S. office or subsidary of any bank holding company or any subsidiary thereof which holds shares in a foreign nonbanking company in which a foreign bank holding company directly or indirectly holds shares may extend credit to such foreign nonbanking company on terms more favorable than those afforded similar borrowers in the United States. The committee believes the non-preferential loan provision should be strictly administered to insure that the exemption afforded under section 8(e) does not give foreign-owned U.S. cost advantages over domestic nonbanking companies.

STUDY ON TREATMENT OF U.S. BANKS ABROAD

Foreign chartered banks are accorded operating privileges in the United States which enable them to compete in the United States on

terms which equal or exceed the domesic operating privileges of our own domestically chartered banks. The committee is concerned that American banks operating abroad are not granted operating privileges competitive with foreign banks operating in their own countries.

The committee believes that the concept of national treatment should be the governing principle guiding operations of a foreign bank in the host country. Under this principle, a foreign bank operating in a particular nation should be accorded operating privileges which provide such banks with the opportunity for competitive equality with their host country domestic counterparts.

The United States has more than abided by the principle of national treatment for foreign banks operating here. Foreign banks have established a strong presence in all major money markets and in some regional banking markets. They have so far been accorded interstate branching privileges denied our domestic banks, and under this legislation they will continue to enjoy a strong interstate presence. They have been allowed to operate securities affiliates that are prohibited to domestic banks under the Glass-Steagall Act. Moreover, this legislation provides for the retention of this foreign bank presence in our securities markets under the grandfather provisions.

In contrast, our domestic banks operating abroad have not always received equal treatment in foreign countries with their host country competitors. Of course, treatment of our banks varies from country to country.

European Common Market countries have been most receptive to the benefits of the competition brought by American banks to their economies. Japan is a contrast. By the restrictive practices of its officials, American banks are competitively disadvantaged in Japanese banking markets. Not only are American banks limited in their branching abilities, but they are also deterred from soliciting local deposits. Because American banks have been limited in their access to the yen market, their presence in Japanese banking has been shrinking.

The Bankers Association for Foreign Trade submitted a memorandum to the committee entitled "Treatment of U.S. Banks in Foreign Countries which discusses the issue of national treatment of U.S. banks abroad." This memorandum has been previously printed in the Congressional Record of July 24, 1978. A review of the BAFT memorandum shows that the principle of national treatment is often frustrated in many countries.

Free and open international banking enhances international trade and fosters democratic principles by providing for open and competitive markets. American banks abroad can and should play a significant role in supporting American exports. The committee is concerned with the uneven treatment accorded to American banks abroad, particularly in contrast with the open reception foreign banks have been given in our domestic market and its consequent effect on the balance of trade.

The committee, therefore, has provided for the Secretary of the Treasury, in conjunction with the Secretary of State, the Federal Reserve, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, to do a study on the extent to which American banks are denied national treatment in their banking operations abroad and the effects, if any, of such discrimination on U.S. exports. The study is to be completed within 2 years.

REPRESENTATIVE OFFICES

The legislation reported by the committee requires foreign banks that maintain offices in the United States other than branches or agencies to register with the Secretary of the Treasury under rules prescribed by the Secretary. This will enable complete information to be compiled respecting foreign bank operations in the United States.

REVIEW OF M'FADDEN ACT

The question of interstate branching by national banks has been debated for many years. The McFadden Act of 1927 limits the ability of national banks to operate branches on an interstate basis. Proposals to amend this act have been exchanged between the Congress and the bank regulatory agencies for many years; yet, no definitive action even toward making preliminary recommendations, has been taken. Congress has requested the advice of the bank regulatory agencies, and the bank regulatory agencies have requested congressional direction. This endless circle of discussion continues while our Government succeeds in sidestepping an important issue.

Chairman Miller, of the Board of Governors of the Federal Reserve System, stated:

> The national policy of barring interstate banking, as embodied in the McFadden Act, needs review. Banking has changed. The structure of the economy and its financial needs have also changed since the McFadden Act was passed over 50 years ago.

Mr. John Heimann, the Comptroller of the Currency, stated:

> The central problem, of course, arises from the McFadden Act, which restricts branching for national banks and which is the product of another era in the economic and political history of this country. Clearly, domestic branching restrictions require reevaluation.

Mr. Robert H. Mundheim, General Counsel of the Treasury Department, stated:

> Interstate branching raises a fundamental competitive question with long-term implications for banking structure in the United States. Technological developments, for example, in the area of electronic funds transfer have increased the urgency of answering that question.

The Congress needs to have the facts, along with a definitive set of recommendations, put before it by the Administration for further debate and possible legislative action. A multi-year commission to study the issue is not the answer. There has been an ongoing discussion of the subject within the Administration and within the banking community.

Therefore, section 14 was added to the bill which directs the President, in consultation with the Secretary of the Treasury, and Attorney General and the appropriate Federal bank regulatory agencies, to present a set of recommendations to the Congress with regard to the applicability of the McFadden Act to the current banking structure. These recommendations are to be made within 1 year of the enactment of the bill.

Section-by-Section Analysis

SECTION 1. SHORT TITLE; DEFINITIONS AND RULES OF CONSTRUCTION

This section provides that the act may be cited as the "International Banking Act of 1978, and defines certain terms used in the act. Principal among these are "agency", "branch", "bank" and "commercial lending company", the four principal means by which a "foreign bank" does business in the United States.

SECTION 2. DIRECTORS OF NATIONAL BANKS

This section amends the National Banking Act to allow the Comptroller of the Currency, at his discretion, to waive the requirement that all directors of national banks be U.S. citizens, in effect permitting not more than a minority of directors of national banks to be non-U.S. citizens.

SECTION 3. EDGE ACT CORPORATIONS

Subsection (a) of section 3 states the three principal objectives of the section: Elimination or modification of provisions in the Edge Act which discriminate against foreign-owned banking institutions, which disadvantage or unnecessarily restrict or limit Edge Act corporations in competing with foreign-owned banking institutions in the United States and abroad, or which impede the attainment of congressional purposes of the Edge Act as amended by subsection (b). The Federal Reserve Board is required to revise its regulations to eliminate or modify any regulatory restrictions, not required by the statute, which discriminate against foreign-owned institutions, disadvantage or unnecessarily restrict or limit Edge Act corporations in competing with foreign-owned institutions, or impede the attainment of the policy objectives set forth in the Edge Act as amended by subsection (b). The Board is required to issue its revised regulations within 150 days after date of enactment, and to adopt final regulations to be effective not later than 120 days after they are first issued.

Subsection (b) amends the Edge Act to include a declaration of Congressional policy which is to serve as guidance to future regulatory actions and interpretations of the Edge Act by the Board. The purposes set forth recognize the importance of establishing international banking facilities throughout the country in promoting international trade, especially U.S. exports; the need to foster Edge Act ownership by regional and smaller banks, in particular to bring trade financing opportunities to small farms and businesses; to stimulate export opportunities and competition in international finance; the need to maintain competitive equality between Edge Act corporations and similar foreign-owned banking institutions in the United States and abroad; and the need to interpret the act in the light of changing economic conditions and banking environments, with a requirement that regulations be reviewed at least once every 5 years.

Subsection (d) eliminates two separate provisions in the Edge Act which prevent such corporations from having liabilities outstanding at any one time upon their debentures, bonds, or promissory notes in excess of ten times their paid-in capital and surplus.

Subsection (e) would eliminate a mandatory 10-percent reserve requirement imposed on Edge Act corporation deposits and provide instead that Edge Act corporations be subject to the same requirements that apply to member banks.

Subsection (f) would modify the Edge Act to permit foreign-owned banking institutions to acquire majority stock control of such corporations.

Subsection (g) requires the Federal Reserve Board to report to the Congress not later than 270 days after the date of enactment of this bill on its recommendations with respect to permitting Edge Act corporations, and their sister State corporations operating under section 25 of the Federal Reserve Act, to become member banks.

Subsection (h) requires the Board in its annual report to the Congress under the Federal Reserve Act, to include its assessment of the effects of the amendments made by this bill on the capitalization and activities of Edge Act corporations, similar State corporations operating under section 25 of the Federal Reserve Act, and on commercial banks and the banking system.

SECTION 4. FEDERAL BRANCHES AND AGENCIES

For the first time, foreign banks may, with the approval of and subject to the supervision of the Comptroller of the Currency, establish one or more Federal branches or agencies in any State in which it is not operating a State branch or agency and where the establishment of a branch or agency by a foreign bank is not prohibited by State law. No foreign bank may maintain both a Federal branch and a Federal agency in the same State. With certain exceptions, statutory or regulatory, the activities of a Federal branch or agency shall be conducted in the same manner as a national bank.

SECTION 5. INTERSTATE BRANCHING

Subsection (a) of section 5 provides that, except as grandfathered by subsection (b), no foreign bank may directly or indirectly establish and operate either a Federal or State branch outside of its home State unless the foreign bank enters into an agreement or undertaking with the Federal Reserve Board to accept only such deposits at such Federal or State branch as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act (an "Edge Act corporation"). The existing deposit limitations on Edge Act corporations are set forth in the sixth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615(a)) and section 211.7(c) of the Board's Regulation K [12 CFR 211.7(c)]. In addition, neither Federal branches nor Federal agencies can be established and operated outside of a foreign bank's home State unless the receiving State expressly permits entry; State branches and agencies can be established and operated outside of a foreign bank's home State only if approved by the bank regulatory authority of the receiving State. It should be noted that this latter requirement confers no authority on State bank regulatory officials to approve foreign bank offices; that authority must derive from appropriate State law. Finally, no foreign bank could acquire any interest

in a bank located outside of its home State if such a transaction would be prohibited by section 3(d) of the Bank Holding Company Act of 1956, as amended, (12 U.S.C. 1842(d)) if the foreign bank were a bank holding company the operation of whose banking subsidiaries are principally conducted in the foreign bank's home State. The last sentence of the subsection provides that notwithstanding any provision of Federal or State law, any branch receiving deposits subject to the limitations of an agreement imposed under this subsection shall not be subject to any mandatory Federal deposit insurance on such deposits. This insures competitive equality with Edge Act corporations, which are not required to obtain insurance on their deposits.

Subsection (b) grandfathers from the limitations or restrictions of subsection (a), any foreign bank branch, agency, or bank or commercial lending company subsidiary which lawfully commenced operation or for which an application to commence business had been lawfully filed on or before July 26, 1978, the day the bill was ordered reported by the committee.

Subsection (c) provides that for purposes of section 5, the home State of a foreign bank that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks, or any combination thereof, in more than one State is whichever of such States is so determined by election of the foreign bank, or in default of such election by the Board.

SECTION 6. INSURANCE OF DEPOSITS IN BRANCHES

Under section 6, all branches of foreign banks have the option of applying for deposit insurance; however, Federal branches and State branches of foreign banks in States in which deposits of a State banks are required to be insured, must obtain deposit insurance if they accept deposits of less than $100,000. This section contains numerous technical amendments to the Federal Deposit Insurance Act which are necessary to enable the FIDC to deal with the special problems involved in the insurance and supervision of branches operated in the United States by foreign banks.

SECTION 7. AUTHORITY OF THE FEDERAL RESERVE SYSTEM

This section imposes on Federal branches and agencies the reporting, reserve, and examination requirements applicable to member banks, and authorizes the Federal Reserve Board to impose on any branch or agency subject to the bill any reserve requirement the Board has authority to impose on Federal branches and agencies. The Board is required to exercise the latter authority "after consultation and in cooperation with the State bank supervisory authorities," with respect to State-licensed institutions controlled by foreign banks. Since these institutions are State licensed and supervised, it was felt entirely appropriate and reasonable for State authorities to have some input into the setting of reasonable reserve requirements, recognizing the ultimate authority of the Federal Reserve to determine reasonable reserve requirements. If the cooperation on the part of the State banking authorities were not forthcoming in any instance, that would in no

way diminish the power conferred on the Board to impose reasonable reserve requirements, or the legal obligation imposed on the branches and agencies to comply therewith.

The Federal Reserve Board has residual authority to examine any foreign bank branch, agency, commercial lending company, or bank subsidiary. In doing so the Board should make maximum use of reports by the Comptroller, FDIC, and State bank supervisory authorities.

Within 2 years after the enactment of this bill, the Board shall submit a report concerning the implementation of the act, and any recommendations for change.

SECTION 8. NONBANKING ACTIVITIES

Subsection (a) of this section in general applies the restrictions of the Bank Holding Company Act to the nonbanking activities of foreign banks and foreign companies carrying on banking activities in the United States, even though the banking activities may be conducted through commercial lending companies or agencies rather than branches or subsidiary banks.

Subsection (b) grandfathers, until December 31, 1985, nonbanking activities engaged in on the date of enactment of this bill by a foreign bank or company, either directly or indirectly, in the United States.

Subsection (c) permanently grandfathers, after December 31, 1985, a foreign bank's or foreign company's nonbanking activities in the United States, if such activities were lawfully engaged in, or such bank or company had applied to be engaged in, on or before July 26, 1978. This grandfather provision is subject to the Federal Reserve deeming it necessary to issue a termination order regarding such activities, if that action is necessary to prevent unsound banking practices or for other specified reasons.

Subsection (a) and (d) specify that a foreign branch, agency, or commercial lending company will be subject to the antitying provisions of the Bank Holding Company Act, as well as eligible for certain statutory exemptions from the restrictions on nonbanking activities included in section 4(c) of that act.

Subsection (e) clarifies the Congressional intent that the prohibitions of the Bank Holding Company Act on nonbanking activities of bank holding companies should not be applied extraterritorially to foreign banking organizations whose principal banking activities are conducted outside the United States.

SECTION 9. STUDY ON TREATMENT OF U.S. BANKS ABROAD

The Secretary of the Treasury, in conjunction with the Secretary of State, the Federal Reserve, the Comptroller of the Currency and the Federal Deposit Insurance Corporation are directed to conduct a study of the extent to which American banks operating overseas are denied national treatment; the effects of such discrimination on U.S. exports; and recommendations for elimination of such foreign laws or practices.

SECTION 10. REPRESENTATIVE OFFICES

This section requires foreign banks maintaining offices in the United States other than branches or agencies to register with the Secretary of the Treasury in accordance with rules prescribed by him.

SECTION 11. CEASE-AND-DESIST ORDERS

Federal bank regulatory agencies are enpowered to issue cease-and-desist orders, under the Federal Deposit Insurance Act, to any foreign bank or holding company to which subsection (a) of section 8 applies and to any nonbank subsidiary of such bank or company.

SECTION 12. AMENDMENT TO THE BANKING ACT OF 1933

This section constitutes a conforming amendment to the Glass-Steagall Act to make it consistent with the policies set forth in section 4.

SECTION 13. REGULATIONS AND ENFORCEMENT

The Comptroller, the Board, and the FDIC are authorized and empowered to issue such rules, regulations, and orders as are necessary to carry out the duties and responsibilities conferred on them under this bill.

SECTION 14. REPORT ON M'FADDEN ACT

The President, in consultation with the Attorney General, the Secretary of the Treasury, the Board, the Comptroller, and the Federal Deposit Insurance Corporation, shall transmit a report to the Congress containing his recommendations concerning the applicability of the McFadden Act to the present financial, banking, and economic environment, including an analysis of the effects of any proposed changes to the act on the structure of the banking industry and on the financial and economic environment in general. The report is to be submitted within 1 year after the enactment of this bill.

Fiscal Impact Statement

In accordance with section 252(a) of the Legislative Reorganization Act of 1970, the committee estimates the bill will result in no additional outlays. This concurs with the estimate prepared by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

U.S. Congress,
Congressional Budget Office,
Washington, D.C., August 1, 1978.

Hon. William Proxmire,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 10899, as amended, the International Banking Act of 1978, as ordered reported by the Senate Committee on Banking, Housing and Urban Affairs, July 26, 1978. This bill would provide for Federal regulation of the activities of foreign banks in U.S. financial markets.

Based on this review, it appears that no significant additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN, *Director.*

CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary to dispense with the requirements of paragraph 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

REGULATORY IMPACT STATEMENT

(RULE XXIX, PARAGRAPH 5)

The extent to which foreign banks will establish operations in the United States under the jurisdiction of the Comptroller is a matter which cannot be precisely defined. It does not appear that the impact of this legislation on the Comptroller's office will be substantial.

This legislation mandates FDIC insurance only for branches of foreign banks if they accept deposits of less than $100,000. The FDIC projects the establishment of few insured branches of foreign banks under the legislation. The regulatory impact of the deposit insurance provisions of the legislation, therefore, should be negligible, according to the FDIC.

The legislation gives the Federal Reserve residual examination and supervisory authority over the domestic operations of foreign banks. The Federal Reserve is to the maximum extent possible to make use of the reports of the Comptroller, the FDIC, and the relevant State regulatory bodies. Branches and agencies of foreign banks principally fall within the regulatory purview of State authorities. Coordination with the State authorities should insure that the role of the Federal Reserve under this legislation does not substantially increase the volume of regulation. The Federal Reserve should be able to implement its reserve setting requirements without a significant impact on its operations.

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Calendar No. 996

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1074

WAIVER OF SECTION 402(a) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 2640

AUGUST 8 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MUSKIE, from the Committee on the Budget, submitted the following

REPORT

[To accompany S. Res. 530]

The Committee on the Budget, to which was referred the resolution, Senate Resolution 530, waiving section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to consideration of S. 2640, a bill to reform the civil service laws reports favorably thereon and recommends that the resolution be adopted.

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because S. 2640, which authorizes enactment of new budget authority which would become available in fiscal year 1979, was reported on July 28, 1978, a resolution waiving section 402(a) of the Budget Act for S. 2640 must be adopted before this bill may be considered by the Senate. In reporting favorably on the resolution, the Budget Committee is not prejudging the merits of the bill.

Committee criteria

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the First Concurrent Resolution. In addition, this section

was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the congressional budget.

BUDGET CONSIDERATIONS

As reported, S. 2640 authorizes "such sums as may be necessary" to carry out certain reforms of the civil service laws. CBO estimates costs of about $14 million in fiscal year 1979 and $38 million in fiscal year 1980, gradually rising thereafter to $49 million in fiscal year 1983.

According to the Committee on Governmental Affairs, the effect of defeating consideration of this authorization and delaying its enactment would be to prevent implementation of the proposed senior executive service, merit pay for middle management, and new protections for "whistleblowers." Division of the functions of the Civil Service Commission and consolidation of Federal labor-management relations could be accomplished by administrative action.

The Governmental Affairs Committee appears to be justified in its failure to report S. 2640 by the May 15 deadline. The administration proposal involved sweeping changes to existing law, and was not received until early March. The committee held 12 days of hearings, and solicited written comments from other experts, and considered the bill in 7 subsequent committee meetings from late May through June.

S. 2640 is consistent with the First Budget Resolution.

To permit orderly consideration of S. 2640, the Budget Committee reports favorably on Senate Resolution 530 and recommends its adoption.

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Calendar No. 997

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1075

WAIVER OF SECTION 402(a) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 11567

AUGUST 8 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MUSKIE, from the Committee on the Budget, submitted the following

REPORT

[To accompany S. Res. 531]

The Committee on the Budget, to which was referred the resolution, Senate Resolution 531, waiving section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to consideration of H.R. 11567, a bill to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–81, and for other purposes, reports favorably thereon and recommends that the resolution be adopted.

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because H.R. 11567, which authorizes enactment of new budget authority, in fiscal year 1979, was reported on July 31, 1978, a resolution waiving section 402(a) of the Budget Act for H.R. 11567 must be adopted before this bill may be considered by the Senate. In reporting favorably on the resolution, the Budget Committee is not prejudging the merits of the bill.

Committee criteria

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year

in which it will take effect so that it could be considered in the formulation of the First Concurrent Resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the congressional budget.

BUDGET CONSIDERATIONS

As reported, H.R. 11567 authorizes $69 million for fiscal year 1979 and $79 million for fiscal year 1980.

According to the Committee on Banking, Housing, and Urban Affairs, the effect of defeating consideration of this authorization and delaying its enactment would be to leave the Securities and Exchange Commission without authorization for operating funds for fiscal year 1979.

H.R. 11567 is consistent with the functional and aggregate targets in the First Budget Resolution.

To permit orderly consideration of H.R. 11567, the Budget Committee reports favorably on Senate Resolution 531 and recommends its adoption.

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Calendar No. 998

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1076

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1979

AUGUST 9 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. LEAHY, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 13468]

The Committee on Appropriations, to which was referred the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes made.

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29-010 O

SUMMARY OF BILL

The bill, as recommended by the Committee, provides appropriations in Federal funds totaling $261,200,000 for fiscal year 1979, composed of $3,000,000 for the Temporary Commission on Financial Oversight of the District of Columbia, $238,000,000 for the "General fund," $10,300,000 for "Water and sewer services," and $9,900,000 for "Payment of RFK Stadium bonds." Appropriations for the District of Columbia for fiscal year 1979 total $1,364,781,500.

Supplemental appropriations for 1978, also payable from District funds, are recommended totaling $21,930,100.

A summary of the recommendations follows:

Item	Amount for fiscal year— 1978 supplemental	1979
Federal funds:		
Commission on Financial Oversight of the District of Columbia		$3,000,000
District of Columbia:		
Federal payment		238,000,000
Payment for Federal water and sewer services		10,300,000
Payment for RFK Stadium bonds		9,900,000
Loans for capital outlay		
Subtotal		258,200,000
Total, Federal funds		261,200,000
District of Columbia funds:		
Operating expenses	$21,930,100	1,287,291,500
Capital outlay		77,490,000
Total, District of Columbia funds	21,930,100	1,364,781,500

TITLE I—TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

The Committee recommends $3,000,000, as requested, for the Federal Government's share of the expenses of the Temporary Commission on Financial Oversight of the District of Columbia during fiscal year 1979, which will be available until expended.

The District of Columbia's contribution toward the expenses of the Commission are included in title II of the bill under the appropriation "General Operating Expenses."

The Committee has included language requested by the Commission clarifying the status of the Commission's staff as congressional employees for the purposes of pay and fringe benefits in accordance with conclusions reached by the Civil Service Commission and the General Accounting Office.

TITLE II—DISTRICT OF COLUMBIA

The Committee recommends appropriation in Federal funds totaling $258,200,000 for fiscal year 1979. Appropriations from District of Columbia funds recommended total $1,364,781,500 for 1979. Supplemental appropriations in District of Columbia funds totaling $21,930,100 are also included in the bill for 1978. A summary of the recommendations follows:

Federal funds:	
Federal payment	$238, 000, 000
Federal payment for water and sewer services	10, 300, 000
Payment for RFK Stadium Bonds	9, 900, 000
Total	258, 200, 000
District of Columbia funds:	
Operating expenses	1, 287, 291, 500
1978 supplemental	(21, 930, 100)
Capital improvements	77, 490, 000
Total	1, 364, 781, 500
1978 supplemental	(21, 930, 100)

A comparative summary of the appropriations recommended follows:

SUMMARY OF BILL

Agency and item	New Budget (obligational) authority, fiscal year 1978	Budget estimates of new (obligational) authority, fiscal years 1978 and 1979	New budget (obligational) authority recommended by House	New budget authority recommended by Senate committee	Senate committee recommendation compared to— Budget	Senate committee recommendation compared to— House bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FEDERAL FUNDS						
Payment of Federal funds [1]	$304,116,000	$327,300,000	$274,300,000	$258,200,000	−$69,100,000	−$16,100,000
Loans for capital outlay	92,000,000	129,790,000			−129,790,000	
Total, Federal funds	396,116,000	457,090,000	274,300,000	258,200,000	−198,890,000	−16,100,000
DISTRICT OF COLUMBIA FUNDS						
Operating expenses	1,239,449,800	1,298,652,000	1,270,970,100	1,287,291,500	−11,360,500	+16,321,400
1978 supplemental		(27,406,100)		(21,930,100)	(−5,476,000)	(+21,930,100)
Capital outlay	129,173,400	129,790,000	77,215,000	77,490,000	−52,300,000	+275,000
Total, District of Columbia funds	1,368,623,200	1,428,442,000	1,348,185,100	1,364,781,500	−63,660,500	+16,596,400
1978 supplemental		(27,406,100)		(21,930,100)	(−5,476,000)	(+21,930,100)

[1] Includes the Federal payment, payment for water and sewer services, and payment of R.F.K. Stadium bonds.

GENERAL STATEMENT

The following general discussion of the bill is organized into three major sections: (1) General Statement, (2) Federal Funds, and (3) Personnel. Following these general discussions are more specific discussions of the Committee recommendations on the request for each of the departments and agencies of the city government.

CETA Program Reforms

The Committee has been concerned with the abuses to the CETA program that have occurred in the City Council and potentially in other city agencies. In order to remedy this situation, the Committee has recommended four reforms to the operation of the CETA program in the District of Columbia. The general thrust of these reforms is as follows:

1. For those agencies with 10 or more employees funded by District of Columbia appropriations, the agency, department or organizational entity may use the funds in this bill to hire new CETA employees only if the total number of CETA employees does not exceed 10 percent of the agency's appropriated employment base.
2. None of the funds in this bill may be used to supplement the salary of a CETA position if the result of such an action would be to provide an annual salary in excess of the level of compensation provided by a GS–9, step 1.
3. None of the funds in this bill may be used to supplement the salary of a CETA employee who has been employed by the program for an aggregate period of more than 24 months.
4. CETA employees may not work for an elected official or on one of the committee's of the City Council.

Items 1, 2, 3, and 4 above would become inoperative on the date of enactment of the Comprehensive Employment and Training Act Amendments that are now pending in both the House and Senate.

Items 2, 3, and 4 will not be effective until 90 days after the enactment of this bill. This delay of implementation is intended to provide a transition period for the city and more importantly for the people involved. This will avoid the need for any forced separations.

These reforms are necessary to help insure that once employed, these individuals will not be used to assist in political activities as is currently prohibited by law. These reforms are also necessary to help ensure that the CETA program meets the objective of providing temporary assistance to alleviate unemployment and to provide training so that unemployed individuals may find gainful full-time employment. CETA employees are now used to provide a significant and continuing portion of the work force for city agencies; other programs exist to subsidize the provision of urban services. It is also noted that the 10 percent limitation in No. 1 above would still permit a growth of almost 60 percent in the number of CETA employees hired by the city.

The Committee is aware that the Comprehensive Employment and Training Act Amendments of 1978 are pending in both the House and the Senate. Section 224 of the bill has the effect of making inoperative all the CETA reforms included in the bill on the date of enactment of the Comprehensive Employment and Training Act Amendments of 1978. This will permit the reform provisions recommended by the authorizing committees to apply uniformly to all cities across the Nation.

Consolidation of Agencies

Since 1976 the Committee has urged the city to consolidate its various agencies and departments in order to help reduce the growth of the budget. By consolidating agencies the required overhead services can be performed more efficiently and with less proliferation and duplication of activities. As a new agency is created attendant demands emerge for all the emoluments of an independent office. Instead of consolidating agencies as requested by the Committee, each year the city government has proposed to create new and independent offices and agencies. For example, in fiscal year 1976 the city proposed the creation of 7 new agencies; in fiscal year 1977 the city proposed the creation of 2 new agencies; in fiscal year 1978 the city proposed the creation of 5 new independent agencies; and in fiscal year 1979 the city has proposed the creation of 7 new agencies.

Since fiscal year 1976 when the Committee began to urge the city to consolidate its new agencies and departments, instead of doing this, the city has proposed the creation of 21 new offices and agencies. Many of these activities had existed previously but were part of other departments. Some of these activities were entirely new and instead of assigning the activities to an existing agency or department with a similar mission a new agency or department was proposed for creation. The result has been, however, to propose the creation of 21 new agencies since 1976 all reporting to the Mayor, extending his span of control to over 50 departments and agencies reporting directly to him.

The Committee has recommended a substantial reversal of this trend in fiscal year 1979 by denying the request to establish six new agencies in fiscal year 1979. The Committee has made the following recommendations:

1. Denial of the request to transfer the Criminal Justice Plans and Analysis Unit out of the Municipal Planning Office to create a new office.
2. Transfer of the funds, positions and responsibilities of the proposed Boxing and Wrestling Commission to the Department of Licenses, Inspections and Investigations.
3. Transfer of the funds, positions and responsibilities of the proposed Educational Institutional Licensure Commission to the Department of Licenses, Inspections and Investigations.
4. Transfer of the funds, positions and responsibilities of the proposed Commission on Healing Arts Licensure to the Department of Licenses, Inspections and Investigations.
5. Transfer of the positions, funds and responsibilities of the proposed Board of Equalization and Review to the Board of Appeals and Review.
6. Denial of the positions and funds requested for the new Minority Business Opportunity Commission as discussed on page 40.

The Committee offers no objection to the creation of D.C. General Hospital as an independent agency of the city government as proposed in the 1979 budget. Previously D.C. General Hospital was a part of the Department of Human Resources.

Reprogramings

The Committee has noted the report made by the D.C. Auditor on July 24, 1979 regarding reprogramings. The D.C. Auditor reported that $5.8 million had been reprogramed by the city without approval of either the House or Senate Appropriations Subcommittees on the District of Columbia. For several years this Committee has required that any change of more than $25,000 in the city's line item budget be submitted for approval. Apparently, this informal system is not working as according to the Auditor, D.C. agencies are making de facto changes within their budget without approval of the Mayor, City Council or the Congress. This practice cannot continue.

The Committee, therefore, requests that the Mayor submit a report to the Committee within 180 days of the enactment of the fiscal year 1979 budget. This report should include proposals for the establishment of improved reprograming control. Such a system of control should be by both main object and budget structure to the lowest level of detail indicated in the budget justifications submitted to the Congress. This new system shall not take effect until approved by both the House and Senate Appropriations Subcommittees on the District of Columbia.

The City's Use of Supplementals and Amendments

The Committee continues to be concerned that the city is overusing supplemental and budget amendments as a routine procedure in obtaining additional funding. The Committee requests that the city limit the use of supplementals and amendments only to items that are truly unforeseeable and to items that are emergency in nature. For example, the Committee received on July 11, 1978, a supplemental request for fiscal year 1978 and an amendment request for fiscal year 1979. The Committee has learned that the city is already planning to send an additional funding request to the Congress for fiscal year 1979. This situation unnecessarily complicates the budget process. It also delays the budget process by requiring the Congress to wait until it receives the city's total request for a given year before proceeding with the processing of a bill.

This year, the additional request for 1978 and 1979 arrived on July 11, 1978, and were received too late to be considered by the House. The Committee requests the political leaders of the city government to exercise a greater degree of discipline over this process.

1978 Supplemental Request

The Committee has approved $21,930,100 of the total request of $27,406,100 for the 1978 supplemental request made by the city. The Committee has approved those items which are necessary to prevent the city from an over obligation of funds and has also approved those items which are necessary because of the occurrence of unforeseeable and emergency situations. A discussion of each of the supplemental requests and the Committee's action on these requests are included in the report under the appropriate agency section.

The following table is printed to provide a summary of the Committee's recommendations on the 1978 supplemental requests:

1978 SUPPLEMENTAL

	Request	Recommended
General operating expenses:		
Council of the District of Columbia	$5,600	
District of Columbia Auditor	9,500	
Executive Office:		
Office of the Secretariat	25,000	
Office of Budget and Management Systems	106,800	
Rental Accommodations Office	88,500	
Department of Finance and Revenue	41,400	
Department of General Services	2,456,400	$2,456,400
Department of Economic Development	150,000	150,000
Public Library	113,000	113,000
Special mission activities:		
Commission on Arts and Humanities	100,000	
Educational Licensure Commission	57,000	
Commission on Healing Arts Licensure	50,000	
Total, general operating expenses	3,203,200	2,719,400
Public safety:		
Courts:		
Superior	66,300	66,300
Department of Corrections	1,073,400	823,400
Total, public safety	1,139,700	889,700
Education: University of the District of Columbia	143,600	68,600
Recreation: Recreation Department	58,000	58,000
Human resources: Department of Human Resources	9,353,900	8,086,000
Transportation:		
Department of Transportation	5,595,100	2,336,900
Washington Metropolitan Area Transit Authority (Metro)	—1,254,700	—1,254,700
Total, transportation	4,340,400	1,082,200
Environmental services:		
Department of Environmental Services	1,219,700	1,100,400
Washington Aqueduct	450,000	450,000
Total, environmental services	1,669,700	1,550,400
Personal services	7,000,000	7,000,000
Settlement of claims and suits	21,800	
Repayment of loans and interest	475,800	475,800
Total	27,406,100	21,930,100

Repayment of RFK Stadium Bonds

RFK Stadium was constructed in 1961 at a cost of $19.8 million and was financed by revenue bonds issued by the Armory Board. The Stadium Act of 1957 (Public Law 85–300 as amended) authorized a sinking fund to be established by stadium receipts for amortization of the revenue bond issue. The act provided that the revenues in the sinking fund be used first to meet the interest and principal necessary to redeem the bonds.

Since construction in 1961 the stadium has not raised enough revenues to retire any of the principal on these revenue bonds which are due on December 1, 1979.

The Presidential Task Force on the District of Columbia addressed the issue of repayment of the RFK Stadium bonds during its deliberations in the spring of 1977. The broad outline of the understanding reached by the task force is that the city would pay one-half of the $19.8 million, the Federal Government would pay the other one-half and the title of the stadium would be transferred to the city govern-

ment upon payment of the bonds. Last year, at the Senate's initiative, the Congress appropriated $9.9 million of these revenues to be included in the sinking fund. This year the Committee recommends an appropriation of an additional $9.9 million out of funds from the U.S. Treasury as the Federal share of the total amount due on December 1, 1979. These actions now substantially implement the recommendations of the Presidential Task Force.

As discussed last year, the funds may be invested in short-term interest bearing instruments, provided they are available for payment of the obligation on or before December 1, 1979.

Child Abuse and Neglect

At the Senate's initiative, the Congress provided $449,000 and 23 positions over the city's request in fiscal year 1978 to fully fund the Child Abuse and Neglect Act of 1977. The Committee has recommended additional funding for child abuse and neglect activities in the fiscal year 1979 bill. Funds have been provided to the Office of the Corporation Counsel to provide for three lawyers to more fully prosecute illegal activities that result in the abuse of children.

The Committee has also recommended funds to provide the Superior Court with two additional positions to coordinate the volunteer activities of approximately 15 private sector attorneys who help prosecute criminal activities that result in abuse of children. Through the Office of Child Abuse and Neglect and with these additional positions provided in the Office of the Corporation Counsel and the Superior Court, the Committee continues to urge the city to move aggressively to assist the children and families who are adversely impacted by child abuse and neglect situations.

Fares for the Bus and Subway System

The original General Manager's fiscal year 1979 budget submitted to the METRO Board assumed a seven percent increase in fares in order to keep pace with the escalation in costs. The District's portion of this increased revenue requirement would have been about $2.8 million and could have been made up from a combination of the following options to increase fares:

Fare increase option:	*Revenue that could be raised, in thousands*
Peak period, 5-cent increase	$1,500.0
Off-peak, 5-cent increase	800.0
Both of the above	2,300.0
Peak period, 10-cent increase	3,000.0
Offpeak, 10-cent increase	1,600.0

The District of Columbia has not implemented any fare increases for fiscal year 1979 in spite of the fact that costs to the city for the system have increased 33 percent or $10,087,800 in 1979 over 1978.

The city cannot long afford to increase its contribution to Metro without increasing fares or without receiving stable funding from a dedicated tax.

The Committee is concerned that the city has not taken advantage of cost savings estimated to total $1 million that are available to the city if the city would eliminate various bus routes that parallel metrorail service. If the city does not take appropriate action in this regard the Committee will be obliged to implement the necessary economies.

U.S. Department of Justice Subsidy to City Operations

The Office of the Corporation Counsel in the city government has the responsibility to prosecute all juvenile cases both criminal and civil. The Office of the Corporation Counsel also has the responsibility for adult offenses to city ordinance or adult offenses to statutes that are in the nature of a city ordinance. The U.S. Attorney's Office in the Federal Department of Justice has the responsibility for prosecution of all remaining adult offenders in the District of Columbia.

Until 1975 the city reimbursed the U.S. Attorney's Office for providing this service to the District of Columbia and in 1975 this reimbursable payment reached almost $10 million. In years following 1975 the city has not reimbursed the U.S. Attorney's Office for these services due to the inability of the city and the U.S. Attorney's Office to reach agreement on how to calculate the cost of the service.

The Committee urges that the U.S. Office of Management and Budget, in consultation with the appropriate city officials and in consultation with the appropriate officials in the U.S. Attorney's Office, to reach an understanding on how to calculate the cost of these services. The Committee requests that the Office of Management and Budget reach a resolution on this issue in time to make recommendations to the Committee to accompany the transmittal of the fiscal year 1980 District budget to the Congress.

Large Number of Advisory Boards and Commissions

The city government has in excess of 115 advisory boards and commissions. Many of the members of these boards and commissions serve at no salary and receive no compensation from the city government. Many others, however, receive compensation at the daily rate of a GS–18 for attending meetings. Few of these meetings last a full day. Consequently, the largest percentage of these individuals are receiving compensation in excess of time and services actually rendered.

The Committee requests that the city reexamine the compensation policy that the city follows in compensating the individuals who serve on these boards and commissions. Nothing in this report is intended to object or question the need to receive and seek advice from the citizens on the operation of the city government. On the contrary, the Committee is well pleased with the city's efforts in this regard.

The Committee, however, requests a report from the city to accompany the fiscal year 1980 budget regarding the compensation policy for individuals who serve on advisory boards and commissions.

Transfer of St. Elizabeths to the City

The Committee urges the city and the Department of Health, Education, and Welfare to effectuate the transfer of St. Elizabeths Hospital from the Federal Government to the city government. The Committee urges that all necessary action be taken by the Department of Health, Education, and Welfare to bring St. Elizabeths up to Federal standards so that it may be transferred to the city as previously agreed by the Presidential Task Force on the District of Columbia in the spring of 1977.

1979 Amendment Request

The Committee has deferred consideration of the fiscal year 1979 amendment request due to its late transmittal to the Committee. The request was received on July 11, 1978, after the House had begun action

on the 1979 bill. The Committee will be pleased to consider these requests at a later time after any additional requests for 1979 have been received by the Committee and after the House has had the opportunity to review the requests.

Authorized but Unfunded Positions

The Committee is concerned that the city still has approximately 1,700 authorized but unfunded positions in fiscal year 1979. Positions which are authorized by the Congress in a given year are authorized for a specific purpose and are justified for that specific purpose. To the extent that these positions are not filled promptly, the description and purpose for which the position may be used is not adhered to overtime. This practice has two undesirable results. First, when the city subsequently fills these positions it is often filling a position that has never been specifically justified to the Congress or authorized by the Congress. Secondly, when the city subsequently requests funding for these positions, the misleading argument is made that the city is not proposing to increase the number of positions, when in fact the manpower strength would be increased. This year the city requested funds to fill 222 of these positions while at the same time arguing that no new positions were being requested.

The Committee requests that the city remedy this situation by continuing to eliminate authorized and unfunded positions, particularly if an authorized position remains unfunded for more than 2 years. The Committee also requests that the city be more forthright when funding is requested for these positions by more explicitly indicating that an increased manpower level is requested. Unless the city implements these reforms, the Committee will feel compelled to take action on its own.

Historic Preservation

The Committee urges the city to take full advantage of the historic preservation program operated by the U.S. Department of the Interior. Until recently, the city has used the U.S. Department of Interior program only to assist in the development and preservation of city-owned properties. The program, however, is also intended to assist in the rehabilitation and preservation of the significant structures and properties that are privately owned. Because of the large number of significant structures in the District of Columbia, both from an architectural and from a historical point of view, the Committee urges the city to more aggressively take advantage of the funding provided by the U.S. Department of Interior to meet these preservation objectives. The Committee feels that this program could have a significant impact on the beauty and livability of the city.

The Committee, therefore, requests quarterly reports from the Department of Housing and Community Development on the progress being made to fully and aggressively implement this program in cooperation with the U.S. Department of Interior.

Mission Budgeting

For the last 3 years the Committee has used a mission budget format for Committee hearings. This format has the effect of placing each of

the city's departments and agencies into one of seven mission oriented appropriation accounts. Each of these accounts includes all those organizational elements which are focused primarily on the same end purpose. This realinement does not split apart any department or agency and, therefore, keeps all existing agencies and departments as responsibility centers. The full details of this mission budget format were printed in Senate Report 95–439 which accompanied the 1978 appropriation bill. The Senate in fiscal year 1978 also restructured the appropriation bill itself to reflect this new mission budget structure.

The House and Senate Conference on the fiscal year 1978 bill reached agreement to defer until fiscal year 1980 the restructuring of the District of Columbia budget as proposed by the Senate. That conference report directed the city to submit the fiscal year 1980 budget to the Congress in a mission budget format in conformance with the mission format reflected in Senate Report 95–439. The Senate looks forward to receiving the 1980 budget in this format as it greatly enhances the understandability of the budget documents for the Congress and the public as well.

Justification Material

The Committee has been hampered in its consideration of the 1979 budget by the new format of the justification materials submitted in support of the requests of the various agencies of the city government. Inasmuch as this material is prepared for the use of the Committees on Appropriations it is requested that the development of the justifications in support of the 1980 budget be coordinated with the staffs of the District of Columbia Subcommittees of the House and Senate Committees on Appropriations.

Per Capita Expenditures

The Committee continues to be concerned that the District of Columbia has the highest per capita expenditure level of any other city in the United States of similar size as reported by a Congressional Research Service (CRS) analysis. Comparison of the District of Columbia and other U.S. cities can be misleading because of the fact that the District of Columbia performs State, county, and special district functions that many other city governments do not perform. The CRS analysis adjusted for these differences by taking into account the effects of State, county, and special district expenditures as well as city expenditures for each of the 19 cities included in its analysis.

The Committee has reviewed the city analysis of May 1978 regarding the per capita expenditures issue. That report concludes that no firm conclusions can be reached from comparative analysis of per capita expenditures without attendant discussion of the relative quality of services, the characteristics of the population and explicit consideration of other circumstances. The Committee agrees in principle with this conclusion. The city report, however, has not provided any alternative analytical framework that would permit these additional adjustments to an analysis of the cost of providing city service on a per capita basis. The Committee believes that many of the subjective factors that the city suggests should be included in a per capita expenditure analysis are not easily amenable to quantification and that the CRS report represents a fair portrayal of the facts that can be quantified with existing data.

The Committee urges the city to exert greater efforts to improve the efficiency of city operations in order to bring the per capita expenditure level down.

As the cost of personnel in the District budget represents in excess of 70 percent of the total costs, attention needs to be given to the number of people it takes to conduct given activities and to the efficiency of the District of Columbia workforce. In the 1974–75 period the District of Columbia city government had 730.4 employees on the average to serve each 10,000 unit of population. The national averages for the same period of time for all levels of State and local governments was 470.9 employees to serve each 10,000 unit of population. In other words, in the 1974–75 period the city had 45 percent more employees to serve each of its 10,000 citizens as compared to the national average.

The following table displays several of the major local government activities and compares the number of District of Columbia city employees needed to serve each unit of 10,000 citizens with the national average for 1974–75. The city functions included in this table are printed in descending order of those activities which require on a percentage basis more employees in the District of Columbia than are required nationally. While this comparison does not necessarily imply inefficiency or waste in the District of Columbia city government, it does raise substantial questions as to why it takes more employees in the District of Columbia to perform a given function as is required nationally. The Committee requests that special attention be given to those functional areas which require substantially more employees as compared to the national average. In an effect to assist in this regard the Committee has restored the 10 positions and $284,700 to the Resource Management Division in the Mayor's budget office to continue its excellent work on productivity improvements in the city government. The Committee directs all agencies and departments in the city government to cooperate totally with the efforts of the Resource Management Division to implement productivity improvements to the operation of the city.

The table follows:

Function	Number of employees in 1974–75 for each 10,000 citizens		Compared to national average (Percent)
	District of Columbia	National average	
Health	49.5	8.6	+476
Sanitation and sewage	37.2	9.5	+292
Police	77.6	25.4	+206
Corrections	24.9	8.9	+180
Public welfare	40.4	15.4	+162
Local parks and recreation	13.2	6.6	+100
General overhead	30.5	15.3	+99
Fire	19.6	10.0	+96
Water supply	7.9	5.6	+48
Hospitals	40.5	44.3	−9
Education:			
Teachers	130.9	145.0	−10
Non teachers	73.9	87.8	−16
Highways	17.7	26.6	−33
Financial administration	6.5	11.7	−44

Collection of Delinquent Parking Ticket Fines

The Committee is pleased with the city's effort to implement the new parking enforcement program. This program will collect in excess

of $17 million of revenues each year and greatly improve the flow of traffic by strictly enforcing the city's traffic and parking regulations. This program however is prospective and does not relate to the problem of collecting the large balances of delinquent parking ticket fines. The Committee is still not convinced that the city is undertaking all the action necessary to collect a significant share of these delinquent parking ticket fines.

The following table illustrates that in spite of the Committee's urging the backlog of delinquent parking fines continues to grow.

	As of Dec. 31, 1976	As of Mar. 31, 1977	As of June 30, 1977	As of May 31, 1978
Owed from calendar year 1976	$15,226,410	$13,059,410	$10,602,640	$5,916,980
Owed from calendar year 1977		3,533,250	7,089,220	9,597,240
Owed from calendar year 1978				6,007,840
Total	15,226,410	16,592,660	17,691,860	21,422,060

Last year the Committee increased the estimates for local revenues by $4,500,000 and urged that the city collect this amount in revenues by more vigorous efforts in collecting delinquent parking ticket fines. The Committee has not recommended a similar action for fiscal year 1979. Such an action, however, may be considered by the Committee at a later time if additional local revenues are needed to help fund any forthcoming supplemental requirements in fiscal year 1979. The Committee requests the continuation of the quarterly reports from the city regarding the number, value, and status of parking tickets issued.

Right Turn on Red

In order to be eligible for funding under the Energy Policy and Conservation Act of 1975, States must meet five requirements, including implementation of a right-turn-on-red rule. The Committee notes that the District has not yet complied with this requirement despite the fact that it received an extension until June 30, 1978, from the Department of Energy to do so and a subsequent extension to September 30, 1978. Since the District's Metrobuses and government vehicles would benefit in gasoline and time savings, and since the city could lose its entire funding under the program for failure to enact such a rule, the Committee urges that the District take the necessary steps to comply with the Act. Because the city has not taken the actions that were required as conditions for receipt of Department of Energy grant funds, the Committee has reduced the Department of Transportation budget by $440,500. This is the amount received by the city from the U.S. Department of Energy as an energy conservation grant. The Committee has agreed to restore these funds if the city takes the required actions that were the original condition for receipt of these Federal grant funds.

Total Resources

Based on recommendations in the bill, it is estimated that a total of $1,770,350,200 and 47,498 positions will be available to the District of Columbia government during the next fiscal year. Included in this

figure are appropriations from District funds recommended in the accompanying bill, Federal and other grants, and reimbursements. The financing of appropriations from District funds is from the Federal payment, revenue sharing and countercyclical funds, and revenues accruing from various local taxes, fees, charges and other collections accruing to the city.

A summary of the total resources by appropriation title follows:

TOTAL ESTIMATED RESOURCES AVAILABLE TO DISTRICT OF COLUMBIA, FISCAL YEAR 1979

[Dollar amounts in thousands]

Item	Recommended in bill (District of Columbia funds)		Federal grants		Grants, reimbursements, and other		Total resources	
	Positions	Amount	Positions	Amount	Positions	Amount	Positions	Amount
Operating expenses:								
General operating expenses	3,125	$95,133,100	4,138	$119,953,800	11	$11,630,400	7,274	$226,717,300
Public safety	9,443	265,961,200	1	9,200	68	3,657,000	9,512	269,627,400
Education	11,258	283,605,400	1,659	47,639,200	43	1,401,000	12,960	332,645,600
Recreation	751	18,392,700	516	1,365,300	1	6,500	1,268	19,764,500
Human resources	5,978	283,321,300	1,272	94,343,200	55	87,547,100	7,305	465,211,600
Transportation	1,005	78,735,200	13	1,121,200		1,873,000	1,018	81,729,400
Environmental services	2,957	72,119,800		1,322,400	20	2,512,400	2,977	75,954,600
Personal services		69,300,000						69,300,000
Settlement of claims and suits		322,800						322,800
Repayment of loans and interest		120,400,000						120,400,000
Subtotal	34,517	1,287,291,500	7,599	265,754,300	198	108,627,400	42,314	1,661,673,200
D.C. General Hospital (positions only)	2,275						2,275	
Total operating expenses	36,792	1,287,291,500	7,599	265,754,300	198	108,627,400	44,589	1,661,673,200
Capital outlay	821	77,490,000		31,187,000			821	108,677,000
Reimbursable positions	406						406	
Revolving fund positions					1,682		1,682	
Grand total	38,019	1,364,781,500	7,599	296,941,300	1,880	108,627,400	47,498	1,770,350,200

[1] Includes 389 reimbursable positions and 118 revolving fund positions.

Financing of Total Resources

The total resources for the operation of the city shown in the preceding table will be financed from both Federal funds and local revenues. During fiscal year 1979 approximately 45 percent of these total resources will be financed from the various Federal funds available to the city, including those recommended in the accompanying bill as well as Federal grants and reimbursements. Unobligated balances of Federal loans appropriated in previous fiscal years totaling $118,402,000 will also be available for use during fiscal year 1979. The remaining 55 percent will be derived from local revenue sources.

A summary of both Federal funds and city revenues estimated to be available during the coming fiscal year follows:

Item	*Amount*
Federal funds:	
Federal payment	$238,000,000
Payment in lieu of reimbursement for water and sewer services to Federal facilities	10,300,000
Payment for RFK Stadium bonds	9,900,000
Federal loans for capital outlay	[1]
Revenue sharing	28,818,000
Countercyclical funds	5,182,000
Subtotal (included in this bill)	292,200,000
Federal grants	296,941,300
Federal reimbursements	93,233,600
Subtotal	[2] 682,374,900
Local and other revenue sources:	
Local taxes, fees, charges and other collections	988,060,000
Cash on hand, accounts payable, and revolving funds	13,031,500
Grants, reimbursements, and other	15,393,800
Subtotal	1,016,485,300
Capital outlay adjustments	77,490,000
Grand total	1,776,350,200
Less permanent appropriations	[3] −6,000,000
Net grand total	1,770,350,200

[1] $118,402,000 available from previous fiscal years.
[2] Excludes Federal loan authority of $118,402,000 available from previous fiscal years.
[3] Composed of the following:

Judgments	$1,500,000
Restorations	1,000,000
Refunds	3,500,000

Balanced Budget Recommended

The Committee is recommending a balanced budget for fiscal year 1979. It is estimated that sufficient revenues will be available on a cash basis to finance the operating expense budget recommended, including debt service requirements, and will provide a minimal cash balance at the end of the year.

Comparison of Fiscal Year 1978 Appropriation and Fiscal Year 1979 Recommendation

The Committee recommendation for fiscal year 1979 exceeds the level enacted for fiscal year 1978 to date by $47,841,700 in operating expenses and is below the amount enacted to date by $51,683,400 in capital outlay for major construction projects for a total of $3,841,700 below fiscal year 1978 enacted to date.

COMPARISON OF FISCAL YEAR 1978 APPROPRIATION AND FISCAL YEAR 1979 RECOMMENDATION

Agency and item	Fiscal year 1978 appropriations enacted to date	Fiscal year 1979 appropriations recommended in bill	Increase/decrease
General operating expenses	190, 862, 600	195, 133, 100	+4, 270, 500
Public safety	263, 771, 000	265, 961, 200	+2, 190, 200
Education	264, 679, 200	283, 605, 400	+18, 926, 200
Recreation	17, 551, 000	18, 392, 700	+841, 700
Human resources	283, 462, 300	283, 321, 300	−141, 000
Transportation	59, 713, 900	78, 735, 200	+19, 021, 300
Environmental services	68, 191, 900	72, 119, 800	+3, 927, 900
Personal services	65, 549, 400	69, 300, 000	+3, 750, 600
Settlement of claims and suits		322, 800	+322, 800
Repayment of loans and interest	125, 668, 500	120, 400, 000	−5, 268, 500
Total, operating expenses	1, 239, 449, 800	1, 287, 291, 500	+47, 841, 700
Capital outlay	129, 173, 400	77, 490, 000	−51, 683, 400
Total, District of Columbia funds	1, 368, 623, 200	1, 364, 781, 500	−3, 841, 700

Cash Flow, 1978

The Committee's recommendations for additional appropriations for fiscal year 1978 result in a balanced budget for that year with a cash balance to be carried over into 1979. The cash flow statement, based on updated revenue estimates and appropriations recommended in the bill follows:

District of Columbia government, fiscal year 1978 financial plan (appropriated operating funds)

[In thousands]

	Amount
Estimated funds available:	
Cash and investments, opening balance	$4, 108
Federal payment	304, 116
Receipts, current authority	938, 910
Revenue sharing	36, 536
Short-term loans	40, 000
Total, estimated funds available	1, 323, 670
Estimated funds required:	
Prior year authority (accounts payable):	
Wages and salaries	45, 018
Other payables and undelivered orders	60, 111
Unobligated authority	42, 339
Liability for withholdings	6, 954
Total, prior year authority	154, 422
Approved budget	1, 239, 450
Supplemental budget recommended	21, 930
Permanent authorizations and restorations	20, 000
Repayment of short-term loans	46, 000
Appropriation lapses	(24, 000)
Net change in revolving fund balance	3, 000
Reserve for Civic Center	2, 375
Unexpended authority (closing accounts payable):	
Wages and salaries	(46, 000)
Other payables and undelivered orders	(65, 000)
Unobligated authority	(31, 000)
Liability for withholdings	(7, 000)
Total, unexpended authority	(149, 000)
Total, estimated funds required	1, 314, 177
Estimated closing cash balance	9, 493

Financing Changes

The Committee's recommendations reflected in the 1978 financial plan printed above result in two changes to the city's proposed financial plan prepared to support the additional supplemental requests for fiscal year 1978. These two changes are as follows:

1. The city's reestimate of local revenue collections for fiscal year 1978 resulted in an increase of revenues adequate to finance the 1978 supplemental request which totaled $27,406,100. The Committee has recommended that $21,930,100 of this request be approved. This has the effect of increasing the 1978 closing cash balance by $5,476,000 and these funds then become available to help finance 1979 requirements.

2. The city had proposed a civic center reserve of $3,375,000 to be established in the 1978 financial plan. These funds are raised by the 80 cents per room hotel tax and by the business surtax that began on May 1, 1978, according to D.C. law 2–58. Section 305 of D.C. law 2–58 indicates that no more than 50 percent of the surtax revenues may be expended on the proposed civic center. The civic center reserve proposed by the city includes 100 percent of the surtax revenues expected to be raised by D.C. law 2–58. The Committee has recommended including 50 percent of the business surtax in the civic center reserve to strictly implement the law.

The Conference Report to accompany the fiscal year 1978 Appropriation Bill, House Report No. 95–1139 included four actions and conditions relative to the civic center. The second condition in this agreement is printed below:

> Implementation of D.C. law 2–58 to assure that the cost of site acquisition and the operating costs of the Civic Center in the early years of operation will be paid from the tax revenues authorized by this public law.

In order to implement D.C. law 2–58, as required by the Conference agreement, only 50 percent of the business surtax raised by this law may be used on the civic center. The Committee has ,therefore, reduced the proposed civic center reserve by $1 million to provide for the strict implementation of D.C. law 2–58. This results in increasing the 1978 closing cash balance by $1 million and increasing the 1979 opening cash balance by $1 million making available an additional $1 million to finance the 1979 requirements.

The result of these two changes is to increase the 1978 closing cash balance by $6,476,000 and to increase the 1979 opening cash balance by the same amount.

Cash Flow, 1979

The following tabulation shows the projected cash flow for operating expenses during fiscal year 1979 based on the latest revenue estimates and the budget recommended in the bill. These projections exclude capital outlays (major construction) appropriation which, under the provisions in the bill, will continue to be financed by loans from the U.S. Treasury. The tabulation follows:

District of Columbia government, fiscal year 1979 financial plan (appropriated operating funds)

[In thousands]

	Amount
Estimated funds available:	
Cash and investments, opening balance	$9,493
Federal payment, general fund	238,000
Federal water and sewer services	10,300
Payment for RFK Stadium	9,900
Receipts, own source	970,610
Revenue sharing [1]	34,000
Short-term loans	40,000
Parking enforcement program	17,450
Total, estimated funds available	1,329,753
Estimated funds required:	
Prior year authority (accounts payable):	
Wages and salaries	46,000
Other payables and undelivered orders	65,000
Unobligated authority	31,000
Liability for withholdings	7,000
Total, prior year authority	149,000
Budget recommended in bill	1,287,292
Permanent authorizations and restorations	6,000
Repayment of short-term loans	40,000
Appropriation lapses	(18,000)
Transfer to District of Columbia General Hospital	7,400
Water and sewer reserve	2,000
Reserve for Civic Center	6,000
Unexpended authority (closing accounts payable):	
Wages and salaries	(48,000)
Other payables and undelivered orders	(68,000)
Unobligated authority	(28,000)
Liability for withholdings	(7,000)
Total, unexpended authority	(151,000)
Total, estimated funds required	1,328,692
Estimated closing cash balance	1,061

[1] Includes $5,182,000 in countercyclical funds.

Financing Changes

The Committee has recommended a number of financing changes that are reflected in the cash flow table that appears above. An explanation for each of these changes is provided below:

1. Increases in the opening cash balance.—The Committee recommends an increase of $6,476,000 in the opening cash balance. This increase is made possible because of Committee actions recommended on the 1978 Supplemental request discussed in detail in this report on page 10. In summary, the changes are made possible because the Committee's recommendations with regard to the city's request for a 1978 Supplemental bill have been reduced by $5,476,000 and the proposed civic center reserve has been reduced by $1,000,000 to conform with the conference agreement with respect to D.C. law 2–58 as discussed on page 8 of House Report 95–1139.

2. New parking enforcement program.—The Committee has recommended approval of the city's request to implement a new parking enforcement program. This program, based on city estimates is estimated to raise an additional $17,450,000 in local revenues. The Committee has, therefore, adjusted the financial plan as approved by the House to include an additional $17,450,000 in the estimates for local revenues in fiscal year 1979.

3. Delinquent water bills.—The Committee has been informed by the Director of Environmental Services that there is approximately $10 million in outstanding and delinquent water bills. The Director has informed the Committee that he expects to be able to collect $5 to $6 million of these delinquent bills which are owed to the city. The Committee has, therefore, increased the city's estimate of local revenue collections by $5 million which is to be raised by the collection of these delinquent water bills.

The Committee has urged the city for the past 3 years to bring all water bills current and to develop a system that will permit the city to accurately know the status of each of the water bill accounts. The Committee continues to receive complaints from the citizens and taxpayers of the District of Columbia with regard to the inaccuracy and lateness of their water bills. The Committee, therefore, requests monthly reports from the city on its efforts to improve this situation. The specific information to be included in these reports should be developed after consultation with Committee staff.

4. *Reserve for the Civic Center.*—The city has proposed a $9 million reserve for the civic center in fiscal year 1979. The Committee has reduced this reserve by $3 million in order to be consistent with the agreement reached in conference on the fiscal year 1978 bill. The relevant portion of that conference agreement is condition No. 2 which may be found on page 8 of the report and which is printed below:

> Implementation of D.C. law 2–58 to assure that the cost of site acquisition and the operating costs of the civic center in the early years of operation will be paid from the tax revenue authorized by this Public Law.

Section 305 of the D.C. law 2–58 indicated that no more than 50 percent of the revenues raised from the business surtax could be used for the civic center. The civic center reserve prepared by the city includes 100 percent of the reserves estimated to be raised by the business surtax. The Committee's action, therefore, is taken in order to implement the D.C. law 2–58 and to strictly and firmly abide by the agreement reached by the Senate and House with regard to this matter.

5. Restoration of revenue officer positions.—The Committee has denied the city's request to redirect the funds previously used to finance 3.3 revenue officer positions. Reinstating these positions, based on city estimates of revenue which is raised by a revenue officer, will raise an additional $990,000. The estimates for local revenue collections have, therefore, been adjusted upward by this amount.

6. RFK sinking fund.—The Committee has provided an additional $9.9 million in Federal funds for the RFK Stadium bond sinking fund. This action brings the total amount of funds in the sinking fund to $19.8 million and will permit the city to retire the revenue bonds which come due on December 1, 1979, in a timely fashion.

FEDERAL FUNDS

As was noted earlier in this report under the discussion of total resources, it is estimated a total of $682,374,900 in Federal funds will be available to the government of the District of Columbia during the ensuing fiscal year including the Federal payment and balances from unobligated loan appropriations, Federal reimbursements, revenue sharing, and countercyclical funds, Federal grants, and Federal payment for repayment of the RFK Stadium bonds.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

The Committee recommends a Federal payment of $238 million, a reduction of $79 million in the amount requested and $26 million below the House recommendation. These reductions to the city request and to the House recommended level are possible primarily because subsequent to the submission of the 1979 budget, the city's June 1978 revenue estimates became available which showed that estimated local revenues were increased by more than $35 million. Additionally, the Senate has recommended approval of the city's proposed parking enforcement program which adds an additional $17,450,000 to local revenues, as well as other actions which increase local revenues as discussed above under Financing Changes for 1979. These increases in local revenues decreases the need for the Federal payment to fund the fiscal year 1979 budget. The budget proposed the appropriation of $317 million, which included $17,000,000 requiring additional authorizing legislation.

The request for the sum of $10,300,000 as a payment in lieu of reimbursements for water and sanitary sewer services furnished to facilities of the United States Government is approved. The Committee has also recommended $9,900,000 for the repayment of RFK Stadium bonds.

A comparative summary of the allocations recommended follows:

FEDERAL FUNDS

Item	Budget estimate, 1979	House bill, 1979	Senate committee recommendation	Bill compared with—	
				Budget estimate, 1979	House bill, 1979
Federal payment to the District of Columbia:					
General fund	$317,000,000	$264,000,000	$238,000,000	−$79,000,000	−$26,000,000
Water fund	5,300,000	5,300,000	5,300,000		
Sanitary sewage works fund	5,000,000	5,000,000	5,000,000		
R. F. K. Stadium bond payment			9,900,000	+9,900,000	+9,900,000
Total, Federal payment	327,300,000	274,300,000	258,200,000	−69,100,000	−16,100,000
Loans to the District of Columbia for capital outlay	129,790,000			−129,790,000	
Total, Federal funds	457,090,000	274,300,000	258,200,000	−198,890,000	−16,100,000

The recommended Federal payment to the general fund is $238 million which is $38 million below the 1978 level. As is shown in the following table, this amount is 26.6 percent of the anticipated local general revenue collections during fiscal year 1979.

The table referred to follows:

FEDERAL PAYMENT COMPARED TO DISTRICT OF COLUMBIA GENERAL REVENUE LOCAL COLLECTIONS

[Dollar amounts in thousands]

Fiscal year	Federal payment appropriated (general fund)	Local general revenue collections	Federal payment as a percentage of local general revenue collections
1951	$9,800	$97,866	10.0
1952	10,400	102,398	10.2
1953	10,000	104,823	9.5
1954	11,000	105,456	10.4
1955	20,000	114,808	17.4
1956	18,000	112,302	14.7
1957	20,000	137,280	14.6
1958	20,000	144,745	13.8
1959	25,000	149,751	16.7
1960	25,000	162,888	15.3
1961	25,000	167,986	14.9
1962	30,000	181,615	16.5
1963	30,000	205,298	14.6
1964	37,500	215,804	17.3
1965	37,500	230,995	16.2
1966	44,250	256,398	17.3
1967	58,000	272,906	21.3
1968	70,000	301,767	23.2
1969	89,365	341,033	26.2
1970	116,166	388,542	29.9
1971	131,000	432,010	30.3
1972	173,654	458,523	37.9
1973	181,500	505,276	35.9
1974	187,450	534,253	35.1
1975	226,200	554,222	40.8
1976	248,949	628,245	39.6
Transition quarter	66,138	199,652	33.1
1977	[1] 276,650	754,447	36.7
1978	276,000	849,540	32.5
1979 recommended	238,000	893,520	26.6

[1] Includes special $650 thousand Federal Payment for inaugural expenses.

District of Columbia Local Collections

It is estimated that local collections will total $988,060,000 in fiscal year 1979.

A summary of these revenues by category follows:

District of Columbia local collections

	Thousands
General revenues:	
Property taxes	$217,700
Sales taxes	267,830
Income taxes	295,200
Other taxes	28,230
Charges and miscellaneous revenues	84,260
Revenue sharing investment revenues	300
Subtotal	893,520
Transportation revenues—gasoline tax, licenses, and other	38,950
Sanitary sewage works revenues—service charges	30,460
Water revenues—service charges	23,930
Metropolitan area sanitary sewage works revenues—service charges	1,200
Total	988,060

History of the Federal Payment

The Committee is again including the usual history of the Federal payment and its relationship to the general fund commencing with

fiscal year 1921 through 1975. Figures for 1976 through 1979 are for operating expenses from all sources. During the past 15 years the Federal payment has increased from $37,500,000, which represented 15.56 percent of the total operating budget, to $238 million recommended in this bill for 1979, which is 18.49 percent of the proposed operating budget. During this same period of time the population of the city has continued to decrease.

The history referred to follows:

FEDERAL PAYMENT

Fiscal year	Total appropriations	District of Columbia share	U.S. share	U.S. share (percent of total)
1921	$21,474,271	$12,256,178	$9,218,093	42.92
1922	22,977,411	13,784,648	9,192,763	40.00
1923	23,833,043	14,430,265	9,402,778	39.45
1924	23,903,755	14,463,330	9,440,425	39.49
1925	31,175,672	22,030,317	9,145,355	29.33
1926	31,139,730	22,139,638	9,000,092	28.90
1927	33,951,478	24,950,987	9,000,491	26.52
1928	34,894,148	25,892,358	9,001,790	25.77
1929	35,957,970	26,957,753	9,000,217	25.02
1930	40,694,306	31,694,306	9,000,000	22.19
1931	45,625,286	36,125,252	9,500,034	20.83
1932	43,840,022	34,339,911	9,500,111	21.61
1933	39,626,998	31,851,847	7,775,151	19.62
1934	29,700,737	24,000,708	5,700,029	19.19
1935	34,620,004	30,080,709	4,539,295	13.11
1936	38,295,953	32,588,424	5,707,529	14.90
1937	40,182,768	35,177,768	5,005,000	12.46
1938	41,143,818	36,118,792	5,025,026	12.21
1939	40,494,451	35,494,451	5,000,000	12.35
1940	41,777,885	35,777,768	6,000,117	14.36
1941	43,136,990	37,136,909	6,000,000	13.91
1942	47,401,269	41,401,269	6,000,000	12.66
1943	49,422,932	43,422,932	6,000,000	12.14
1944	54,642,247	48,642,247	6,000,000	10.98
1945	62,599,125	56,599,125	6,000,000	9.58
1946	64,728,423	58,728,423	6,000,000	9.27
1947	72,584,314	[4] 64,584,314	8,000,000	11.02
1948	81,744,086	70,744,086	11,000,000	13.45
1949	86,017,985	75,017,985	11,000,000	12.79
1950	98,331,275	87,331,275	11,000,000	11.19
1951	103,924,822	94,124,822	9,800,000	9.43
1952	121,265,978	110,865,978	10,400,000	8.58
1953	113,589,327	103,589,327	10,000,000	8.80
1954	129,111,304	118,111,304	11,000,000	8.52
1955	139,578,760	119,578,760	20,000,000	14.33
1956	143,179,303	125,179,303	18,000,000	12.57
1957	155,579,025	135,579,025	20,000,000	12.86
1958	166,096,999	146,096,999	20,000,000	12.04
1959	185,915,914	160,915,914	25,000,000	13.45
1960	199,806,074	174,806,074	25,000,000	12.51
1961	[1] 199,522,707	174,522,707	25,000,000	12.52
1962	209,571,780	179,571,780	30,000,000	14.31
1963	224,594,494	194,594,494	30,000,000	13.35
1964	240,934,361	203,434,361	37,500,000	15.56
1965	265,062,212	227,562,212	37,500,000	14.14
1966	285,093,147	240,843,147	44,250,000	15.52
1967	318,057,766	260,057,766	58,000,000	18.23
1968	371,269,747	301,269,747	70,000,000	18.85
1969	435,474,907	346,109,907	89,365,000	20.52
1970	528,960,521	412,794,521	[3] 116,166,000	21.95
1971	591,262,769	460,262,769	[3] 131,000,000	22.16
1972	641,466,000	467,812,600	173,654,000	27.07
1973	718,091,300	536,591,300	181,500,000	25.28
1974	777,764,647	590,314,647	187,450,000	24.10
1975	845,616,600	619,416,600	226,200,000	26.74
1976	1,042,142,700	793,194,000	248,948,700	23.88
1977	1,130,505,900	853,855,900	[4] 276,650,000	24.47
1978	1,239,449,800	963,449,800	276,000,000	22.27
1979 Est.	1,298,652,000	981,652,000	317,000,000	24.41
1979 Rec.	1,287,291,500	1,049,291,500	238,000,000	18.49

[1] Excludes appropriations for capital outlay beginning with fiscal year 1961.

[2] Includes $5,000,000 as provided in Public Law 91-105 for law enforcement activities in fiscal year 1970 only and $8,000,000 as provided in Public Law 91-297 for use in defraying the cost of the retroactive pay increases for policemen, firemen, and teachers.

[3] Includes $5,000,000 as provided in Public Law 91-358 for purposes of the District of Columbia Court Reform and Criminal Procedures Act of 1970.

[4] Includes $650,000 for Inaugural expenses.

Note.—1921 through 1960 compared to total appropriation for general fund—Operating and capital. 1961 through 1975 compared to total appropriation for general fund—Operating expenses. 1976, 1977, 1978, and 1979 compared to total appropriation for operating expenses—All sources.

Loans to the District of Columbia for Capital Outlay

The Committee recommends no additional loan appropriation for fiscal year 1979. The Committee has been advised that unobligated Federal loan authority from previous fiscal years will be available to finance the city's capital improvements program during fiscal year 1979.

A summary follows:

Federal loans for capital outlay:	
Appropriation, 1978	$92,000,000
Estimate, 1979	129,790,000
Recommended, 1979	----------

The necessary loans to the city for capital outlay are being funded in 1979 with unobligated balances from prior year appropriations.

Federal Grants

The District of Columbia participates as a State, county, and city in the various Federal grant programs. The funds from these grants are in addition to those included in the budget recommendations in this bill. The current estimate of funds to be derived from this source during fiscal year 1979 totals $296,941,300.

A summary of the grants by agency follows:

Summary of Federal grant assistance to the District of Columbia

Agency	*1979 estimate*
General operating expenses:	
Municipal Planning Office	$494,200
Personnel Office	90,000
Office of Emergency Preparedness	265,600
Office of Human Rights	99,600
Department of Licenses, Inspections, and Investigations	30,000
Public Library	399,800
Department of Manpower	54,235,800
Other Independent Agencies and Offices:	
Department of Housing and Community Development	59,226,900
Board of Parole	38,100
Minimum Wage and Industrial Safety Board	305,600
Public Service Commission	45,100
Special mission activities:	
Office of Criminal Justice Plans and Analysis	1,667,800
Office on Aging	2,239,600
Commission on the Arts and Humanities	276,000
Manpower Service Planning and Advisory Council	173,700
Office of Business and Economic Development	366,000
Total, general operating expenses	119,953,800
Public Safety: Department of Corrections	9,200
Education:	
Public Schools	38,917,500
University of the District of Columbia	8,721,700
Total, education	47,639,200
Recreation: Recreation Department	1,365,300
Human Resources: Department of Human Resources	94,343,200
Transportation: Department of Transportation	1,121,200

Environmental Services: Department of Environmental Services	1, 322, 400
Total, operating expenses	265, 754, 300
Capital outlay	31, 187, 000
Total	296, 941, 300

General Revenue Sharing and Countercyclical Funds

The city also participates in the Federal general revenue sharing and countercyclical or anti-recession programs. The sum of $28,818,000 in revenue sharing funds will be made available to the city during 1979 and these funds are specifically set out in the language of the bill as resources for financing the amounts recommended in the various appropriations.

A summary of the allocation by agency follows:

General revenue sharing

Agency	*Amount*
Department of Finance and Revenue	$300, 000
Public Library	499, 300
Metropolitan Police Department	1, 376, 400
Fire Department	2, 347, 000
Department of Corrections	2, 140, 000
Public Schools	7, 664, 800
Recreation Department	208, 200
Department of Human Resources	6, 520, 000
Department of Transportation	2, 562, 300
School Transit Subsidy	3, 700, 000
Department of Environmental Services	1, 500, 000
Total	28, 818, 000

Under the provisions of Public Law 94–369, as amended, the city government will receive a total of $5,182,000 during fiscal year 1979 in intergovernmental anti-recession assistance or so-called countercyclical funds. As with revenue sharing funds they must be appropriated and are set out in the bill language as payable from funds to be received under title II of the Public Works Employment Act.

The following shows the allocation of these funds by agency.

Intergovernmental anti-recession assistance

Agency	*Amount*
Metropolitan Police Department	$2, 591, 000
Public Schools	2, 591, 000
Total	5, 182, 000

PERSONNEL

The Committee recommends a total of 38,019 positions to be financed from District of Columbia appropriated funds during fiscal year 1979 composed of 36,792 positions under operating expenses, 406 reimbursable positions and 821 capital outlay positions. The Committee action adds 113 additional positions to the District of Columbia payroll over the House allowance. The budget proposed a total of 38,738 positions. The recommendation is 719 positions below the number requested and 1,201 less than the number authorized for fiscal year

1978. The reduction of 719 positions in the number requested reflects denial of 258 positions proposed to be transferred from the central pool, including 109 for the regular city agencies and 149 for the District of Columbia General Hospital, and also reflects a decrease in the number of unfunded positions through a reduction in the proposed lapse rate from 4.6 percent to 3 percent. The Committee has restored 113 positions eliminated by the House.

A comparative summary of positions by agency follows:

SUMMARY OF POSITIONS—DISTRICT OF COLUMBIA FUNDS

	Authorized, 1978	Requested, 1979	House bill, 1979	Recommended to Senate, 1979	Compared with—Request	Compared with—House
General operating expenses:						
Office of the Mayor	34	43	34	34	−9	
Council of the District of Columbia	86	101	86	83	−18	−3
District of Columbia Auditor	10	10	10	10		
Executive Office:						
Office of the Secretariat	25	26	25	25	−1	
Office of Public Affairs	8	8	8	8		
Office of Budget and Management Systems	291	281	266	286	+5	+20
Municipal Planning Office	82	77	76	81	+4	+5
Personnel Office	69	72	66	66	−6	
Office of Emergency Preparedness	7	7	7	7		
Office of Human Rights	48	49	46	46	−3	
Office of Consumer Protection	16	21	16	21		+5
Office of Rental Accommodations	41	41	40	40	−1	
Department of Finance and Revenue	570	597	559	579	−18	+20
Office of the Corporation Counsel	153	156	150	153	−3	+3
Department of General Services	528	536	524	524	−12	
Department of Licenses, Inspections, and Investigations	157	156	153	156		+3
Public Library	498	499	475	475	−24	
Department of Manpower	16	16	15	15	−1	
Other independent agencies and offices:						
Office of Youth Advocacy	10	10	9		−10	−9
Department of Housing and Community Development	263	274	253	253	−21	
Parole Board	23	23	23	23		
Department of Insurance	26	26	26	26		
Minimum Wage and Industrial Safety Board	38	38	38	38		
Recorder of Deeds	63	63	60	60	−3	
Public Service Commission	31	29	29	29		
Board of Elections and Ethics	33	38	33	33	−5	
Office of the Surveyor	31	31	31	31		
Special mission activities:						
Office of Criminal Justice Plans and Analysis		5	5		−5	−5
Commission on the Arts and Humanities	3	3	3	3		
Office on Aging	3	3	3	3		
Office on Latino Affairs	5	5	5	5		
Boxing and Wrestling Commission		2	1		−2	−1
Board of Appeals and Review	4	4	4	4		
Educational Institution Licensure Commission		2	1		−2	−1
Commission on the Status of Women	2	2	2	2		
Commission on Judicial Disabilities and Tenure	1	2	1	1	−1	
Board of Labor Relations	2	2	2	2		
Commission on Healing Arts Licensure		3	1		−3	−1
Law Revision Commission	3	8	3	3	−5	
Minority Business Opportunity Commission		6			−6	
Total, general operating expenses	3,180	3,275	3,089	3,125	−150	+36
Public safety:						
Metropolitan Police Department	4,805	4,673	4,743	4,743	+70	
Fire Department	1,544	1,566	1,538	1,538	−28	
Courts:						
Appeals	69	69	69	69		
Superior	969	920	952	919	−1	−33
District of Columbia Court System	63	63	63	63		
Public Defender Service	94	113	108	108	−5	
Bail Agency	47	57	47	50	−7	+3
National Guard	19	19	19	19		
Department of Corrections	2,100	1,976	1,934	1,934	−42	
Total, public safety	9,710	9,456	9,473	9,443	−13	−30

SUMMARY OF POSITIONS—DISTRICT OF COLUMBIA FUNDS—Continued

	Authorized, 1978	Requested, 1979	House bill, 1979	Recommended to Senate, 1979	Compared with— Request	Compared with— House
Education:						
Public Schools	9,934	9,798	9,776	9,758	−40	−18
University of the District of Columbia	1,529	1,529	1,500	1,500	−29	
Total, education	11,463	11,327	11,276	11,258	−69	−18
Recreation: Department of Recreation	762	764	751	751	−13	
Human resources: Department of Human Resources	8,488	6,187	5,978	5,978	−209	
Transportation: Department of Transportation	1,298	1,030	880	1,005	−25	+125
Environmental services:						
Department of Environmental Services	2,737	2,738	2,657	2,657	−81	
Washington Aqueduct	310	310	300	300	−10	
Total, environmental services	3,047	3,048	2,957	2,957	−91	
Subtotal	37,948	35,087	34,404	34,517	−570	+113
District of Columbia General Hospital	(1)	2,424	2,275	2,275	−149	
Total, operating expenses	37,948	37,511	36,679	36,792	−719	+113
Reimbursable positions	406	406	406	406		
Capital outlay positions	[2] 866	[3] 821	[3] 821	[3] 821		
Grand total	39,220	38,738	37,906	38,019	−719	+113

[1] 2,275 positions included under "Human resources" in 1978.
[2] Includes 389 reimbursable positions and 123 revolving fund positions.
[3] Includes 389 reimbursable positions and 118 revolving fund positions.

OPERATING EXPENSES

General Operating Expenses

The Committee recommends a total of $95,133,100 for 1979 for the various departments, agencies, and activities funded by this appropriation. This allowance is $1,193,700 below the amount requested and $1,414,600 above the House allowance. The sum of $2,719,400 in additional appropriations for 1978 is also recommended.

A comparative summary by agency follows:

GENERAL OPERATING EXPENSES

Activity	Appropriation, 1978	Budget estimates, 1978 and 1979	House allowance	Committee recommendation
Office of the Mayor	$992,200	$1,372,000	$1,040,700	$1,035,700
Council of the District of Columbia	2,542,000	3,017,200	2,733,100	2,578,300
1978 supplemental		(5,600)		
District of Columbia Auditor	251,300	264,100	263,000	263,000
1978 supplemental		(9,500)		
Executive Office	30,073,100	29,305,600	28,692,100	29,098,400
1978 supplemental		(220,300)		
Department of Finance and Revenue	10,983,800	11,866,000	11,471,200	11,778,300
1978 supplemental		(41,400)		
Office of the Corporation Counsel	3,678,800	4,044,600	3,896,300	4,026,300
Department of General Services	18,093,300	17,901,000	19,260,700	19,260,700
1978 supplemental		(2,456,400)		(2,456,400)
Department of Licenses, Inspections, and Investigations	2,806,600	2,932,700	2,918,600	3,173,200
1978 supplemental		(150,000)		(150,000)
Public Library	8,385,800	8,900,800	8,842,900	9,550,300
1978 supplemental		(113,000)		(113,000)
Department of Manpower	253,200	344,800	343,600	343,600
Other independent agencies and offices	10,861,500	13,560,100	11,859,400	11,888,800
Special mission activities	1,941,000	2,817,900	2,396,900	2,136,500
1978 supplemental		(207,000)		
Total, general operating expenses	90,862,600	96,326,800	93,718,500	95,133,100
1978 supplemental		(3,203,200)		(2,719,400)

Office of the Mayor.—The appropriation of $1,035,700 is recommended for 1979. The Committee has not allowed the increase of $234,500 and the additional positions requested for the general assistant's staff and the Legislation Office. The request of $5,000 for special police and chauffeur service after regular duty hours is denied.

Council of the District of Columbia.—The Committee recommends a total of $2,578,300 for the coming fiscal year, which is $438,900 less than requested and $154,800 below the House allowance.

The Committee has not allowed the two additional positions requested to establish a codification office but has provided an increase of $82,500 for contractual services and other expenses related to the codification of the District of Columbia Code. The Committee requests that the additional positions requested for this codification activity be obtained through reprogramings. The Committee has denied the request to provide each Council member with an additional position for constituent services, as well as the authority to allow each of the 12 council-members to receive a representation allowance of $300.

The Committee has disallowed $109,400 in the base requested to supplement the salary of 41 CETA positions proposed for fiscal year 1979 for employment on City Council committee staffs. The Committee directs the City Council to discontinue the practice of preselecting CETA employees, of assigning CETA employees to work for elected officials and of assigning CETA employees to work on City Council committee staffs. The requested increase of $4,400 for the CETA program is denied. A full discussion of the CETA program reforms recommended by the Committee may be found on page 8 of this report.

The Committee has reduced the City Council base by $45,400 and three positions to eliminate the resources which remain in the base from the one-time printing and binding expenses associated with the publication of the D.C. Code in fiscal year 1978.

The 1978 supplemental request for the City Council has been denied.

District of Columbia Auditor.—The Committee recommends a total of $263,000 for the fiscal year 1979, which is $1,100 below the amount requested. This reduction is the usual adjustment reflecting final action on the 1978 bill.

The 1978 supplemental request for the D.C. Auditor has been denied.

Executive Office.—A total of $29,098,400 is recommended for fiscal year 1979 for the various offices and programs carried within the Executive Office budget, which is $207,200 less than requested and $406,300 above the House allowance.

The 1978 supplemental request for the Executive Office has been denied.

EXECUTIVE OFFICE

Activity	Estimate 1978 and 1979	House allowance	Committee recommendation
Office of the Secretariat	$693,900	$675,500	$675,500
1978 supplemental	(25,000)		
Office of Public Affairs	218,700	197,900	197,900
Office of Budget and Management Systems	10,038,400	9,707,200	10,200,600
1978 supplemental	(106,800)		
Municipal Planning Office	1,735,600	1,727,500	1,833,300
Personnel Office	1,662,800	1,596,800	1,596,800
Compensation Funds:			
Disability compensation	5,857,900	5,835,500	5,835,500
Unemployment compensation	5,962,900	5,934,300	5,637,600
Workmen's compensation	751,200	747,600	747,600
Office of Emergency Preparedness	147,500	146,900	146,900
Office of Human Rights	916,700	911,800	911,800
Office of Consumer Protection	568,100	462,800	566,600
Rental Accommodations Office	751,900	748,300	748,300
1978 supplemental	(88,500)		
Total, Executive Office	29,305,600	28,692,100	29,098,400
1978 supplemental	(220,300)		

Office of the Secretariat.—The sum of $675,500 is recommended for 1979, a reduction of $18,400 in the amount requested, reflecting the denial of a financial assistant position. The Committee has approved funds requested to meet higher costs associated with codification of District of Columbia rules and regulations and the municipal code, as well as funding to cover increases in the volume of printing.

The 1978 supplemental request for the Office of the Secretariat has been denied.

Office of Public Affairs.—The Committee recommends the appropriation of $197,900, which is $20,800 less than requested, reflecting denial of the request for funds to print a new edition of the booklet "For Your Information."

Office of Budget and Management Systems.—A total of $10,200,600 is recommended for the various activities of this office during the next fiscal year. This allowance is $162,200 more than requested and $493,400 above the House allowance. This allowance includes $3,000,000 for the District's share of the financial management improvement program currently being undertaken by the Temporary Commission on Financial Oversight of the District of Columbia.

The Committee has restored the 10 positions and $284,700 for the Resource Management Improvement Division and has directed this Division to redouble its fine efforts to implement productivity improvements in the City government in order to help reduce the unacceptable high per capita expenditure level.

The Committee has also restored the 10 positions and the $208,700 to continue the activities of the Municipal Audit Division. The Committee supports a strong internal audit as a means of strengthening the District's management and oversight of programs, operations, funds and other resources. Therefore, the Committee has restored the 10 auditor positions.

Currently, a large amount of audit effort is spent on recurring financial audits required by either law or regulations. Financial audits are certainly necessary to attest to sound financial management systems. However, if a large portion of these audit efforts were directed toward determining the efficiency and effectiveness of operations both District of Columbia mangement and the Congress would receive greater benefits from the audits.

The Committee urges the District to analyze its audit workload to find ways to better allocate its resources to satisfy requirements for mandated audits and provide for expanding the scope of audits to include determinations that program objectives are being achieved effectively and economically.

The Committee also requests that the Office of Budget and Management Systems assist in the orderly phase out of the Office of Youth Advocacy and also to assume or assign to another agency any of the necessary functions previously performed by the Office of Youth Advocacy.

The 1978 supplemental request for the Office of Budget and Management Systems has been denied.

Municipal Planning Office.—The Committee has denied the request of the city to transfer the Criminal Justice Plans and Analysis Unit out of the Municipal Planning Office to create a new independent agency. The Committee is not pleased with the complete lack of progress made by the city to analyze the alternatives to incarceration as requested in May 1977. The Committee therefore requests monthly reports from the Criminal Justice Plans and Analysis Unit on progress being made to complete this study.

Office of Personnel.—An appropriation of $1,596,800 is recommended for the operation of the Personnel Office, which is $66,000 below the amount requested. The Committee has denied the three additional positions and related funding requested for fiscal year 1979.

Unemployment Compensation.—The Committee has allowed $5,637,600 which includes a 5 percent or $296,700 reduction. An additional $28,600 reduction has been made to continue the one-half of 1 percent base reduction. The city's estimate for this activity was made prior to November 1977 and the unemployment level and unemployment projections have improved substantially since then.

Office of Human Rights.—The sum of $911,800 is recommended for the next fiscal year, which is a reduction of $4,900 in the amount requested. The Committee has approved the proposed redirection of positions and funds from the Office of Human Rights to the Commission on Human Rights. The requested addition of one new position has been denied.

Office of Consumer Protection.—The Committee has recommended an appropriation of $566,600 which is the full amount requested by the city, reduced only by the usual adjustments based on final action on the 1978 bill. The recommendation includes the five extra positions and the associated $112,500 requested by the city but denied by the House.

Office of Rental Accommodations.—The Committee recommends a total of $748,300 for fiscal year 1979, which reflects the usual adjustments based on final action on the 1978 bill.

The 1978 supplemental request for the Office of Rental Accommodations has been denied.

Department of Finance and Revenue.—The Committee recommends an appropriation of $11,778,300 which is $87,700 less than requested but $307,100 more than provided by the House. The Committee has approved all the additional positions requested by the city for tax administration and urges the city to maintain aggressive efforts to collect all the taxes that are owed. In this regard, the Committee requests quarterly reports from the city to report on efforts to collect delinquent taxes and to provide the Committee with quarterly reports regarding revenue collections and projections.

The Committee recommendation also includes additional funds requested for workload requirements such as computer operations, an expansion of the taxpayer education and information program, the acquisition of equipment required by the transfer of District banking operations to private institutions from the U.S. Treasury, and funds requested in support of other programs.

The Committee has also provided an additional $52,200 to obviate the need to lapse 3.3 revenue officer positions in order to have adequate funds to meet within grade pay increases. The Committee has therefore increased the revenue projections by $990,000 for fiscal year 1979 to reflect the activities of 3.3 additional revenue officer positions.

The 1978 supplemental request for the Department of Finance and Revenue has been denied.

Office of the Corporation Counsel.—The sum of $4,026,300 is recommended for fiscal year 1979 which is $18,300 less than requested and $130,000 above the House allowance. The Committee has approved funding for the child abuse prevention and enforcement program. This program is currently funded through an LEAA grant which expires at the end of fiscal year 1978. The usual base adjustment due to final action on the 1978 Appropriation Act is also reflected in the recommended total.

Department of General Services.—The Committee recommends a total of $19,260,700 for 1979, an increase of $1,167,400 over the current level of appropriations and $1,359,700 above the budget request. The increase over the 1979 request reflects final action on the 1978 bill. These adjustments include the transfer of the leasing authority and funding previously granted to the Department of Human Resources back to the Department of General Services. A net increase of eight positions has been approved reflecting the transfer of the Police administrative telephone activity to the Department of General Services as well as other adjustments requested to provide the additional services required for the operation of the new court building.

The Committee has recommended approval of a $2,456,400 supplemental for 1978 for the Department of General Services.

Department of Licenses, Inspections, and Investigations.—A Total of $3,173,200 is recommended for the newly named Department of Licenses, Inspections, and Investigations. This agency was formerly the Department of Economic Development. With the creation of the new Federally funded Office of Business and Economic Development, the Mayor, made the change to more accurately reflect the responsibilities and duties of the Department.

The Committee has denied the city's request to create the following new agencies: The Boxing and Wrestling Commission, the Commission on Healing Arts Licensure, and the Educational Institution Licensure Commission. The funds and positions and attendant responsibilities approved by the House for these activities have been transferred to the Department of Licenses, Inspections, and Investigations.

The Committee has recommended approval of a $150,000 supplemental for the Department of Licenses, Inspections, and Investigations for 1978.

Public Library.—An appropriation of $9,550,300 is recommended for the next fiscal year which is $649,500 above the 1979 estimate and $707,400 above the House allowance. The Committee has approved the staffing and maintenance requests for the new Deanewood Branch which is expected to be ready for occupancy in late summer of 1979.

The Committee has added $707,400 over the level requested by the city and approved by the House to permit the library system to install and operate a computerized system that will help the city maintain a book inventory. The Congress continues each year to approve substantial amounts of funds to permit the library to buy new books. The following table shows the total amount of funds for each of the last ten years that have been approved by the Congress to purchase new books:

Fiscal year:	
1968	$478,622
1969	478,622
1970	478,622
1971	478,622
1972	478,622
1973	478,622
1974	503,622
1975	668,000
1976	728,000
1977	771,000
1978	793,100
Total	6,335,454

These funds have been approved in spite of the fact that the city does not take an annual book inventory and therefore does not accurately know the number of books in the system, and the number of books that have been lost or stolen. In future years the Committee will not approve significant amounts for new books until the Library can accurately account for its existing stock.

The Committee has recommended approval of $113,000 supplemental for the public library for 1978.

Department of Manpower.—The sum of $343,600 is recommended in the District of Columbia funds for the Department during the next year, which is an increase of $90,400 above current appropriations. The bulk of the resources available to the Department are in the form of Federal grants which, with the amount recommended in the bill, will provide a total of $54,579,400 for the operation of the Department during fiscal year 1979. The Committee has approved the request of $67,600 for the Senior Community Service employment program and job development public communication project.

Other Independent Agencies and Offices.—A total of $11,888,800 is recommended for fiscal year 1979 for the agencies and offices within this category. The allowance is $1,671,300 below the amount requested and $29,400 above the House allowance.

A listing of the allocation of funds to the various agencies and offices follows:

OTHER INDEPENDENT AGENCIES AND OFFICES

Activity	1979 estimate	House allowance	Committee recommendation
Office of Youth Advocacy	$245,000	$243,900	$61,000
Department of Housing and Community Development	6,481,200	5,405,900	5,405,900
Board of Parole	479,500	477,200	477,200
Department of Insurance	641,600	638,700	638,700
Minimum Wage and Industrial Safety Board	801,900	798,300	760,600
Recorder of Deeds	875,200	871,300	871,300
Public Service Commission	732,200	728,800	728,800
Board of Elections and Ethics	1,905,000	1,798,700	1,798,700
Office of the Surveyor	398,500	396,600	396,600
Advisory Neighborhood Commissions	1,000,000	500,000	750,000
Total, other independent agencies and offices	13,560,100	11,859,400	11,888,800

Office of Youth Advocacy.—The Committee recommends $61,000 for one quarter funding to provide for the orderly phase out of the Office of Youth Advocacy.

The operational programs of this office were transferred to the Department of Recreation and the Department of Manpower in March 1977. Since that time the Office has prepared lists of private and public youth programs in the city, has prepared a catalog of private and public sources of funding for youth programs, has prepared and distributed a methodology of program evaluation for city agencies that operate youth programs and has prepared a bibliography of youth program publications and collected a small library. Since March 1977 the Office of Youth Advocacy has not tested any new youth programs and none are proposed for 1979. The city currently has a full array of youth programs and the activities of the Office can now be transferred to the Office of Budget and Management Systems or to another agency as decided by the Mayor.

Department of Housing and Community Development.—The Committee has approved the appropriation of $5,405,900 for fiscal year 1979, which is $1,075,300 below the amount proposed reflecting the deferral of the request to implement the proposed Home Purchase Assistance Program. The legislation authorizing the establishment of this program was not finally enacted at the time the bill was marked up.

Minimum Wage and Industrial Safety Board.—The Committee recommends a total of $760,600 which is $41,300 less than requested by the city and $37,700 less than recommended by the House. The Committee has denied the $37,700 requested to compensate the Board for previous economy measures.

Board of Elections and Ethics.—A total of $1,798,700 is recommended for the Board during fiscal year 1979. This allowance is $106,300 less than was requested. The Committee has approved the sum of $650,000 requested for the purchase of additional vote counting machines. The request for the five additional positions has not been allowed.

Office of the Surveyor.—The Committee recommends $396,600 for the Office of the Surveyor during fiscal year 1979. For the last 3 years the Committee has requested the Office of the Surveyor to adjust its fee schedule which has been substantially out dated by the effects of inflation. The Committee is concerned to learn that while the Office of the Surveyor submitted a request for a new fee schedule in May

1975, the proposal has still not been submitted in final form to the City Council. Because of this inordinate delay, the Committee requests monthly reports on the city's progress to implement an updated fee schedule for the Office of the Surveyor.

Advisory Neighborhood Commission.—The Committee recommends $750,000 for fiscal year 1979, which is $250,000 less than was requested and $250,000 more than provided by the House. Based on information given the Committee in response to questions asked during the May hearings, the Advisory Neighborhood Commission program will have an unobligated cash balance of $160,000 to $475,000 at the end of fiscal year 1978. This, along with the $750,000 recommended, will give the program a funding level in 1979 that will approximate the full request and will likely exceed the request for $1,000,000.

Special Mission Activities.—The Committee recommends a total of $2,136,500 for the activities grouped under this heading, which is $681,400 less than requested and $260,400 below the House allowance.

The 1978 supplemental request for the special mission activities has been denied.

SPECIAL MISSION ACTIVITIES

Activity	1979 estimate	House allowance	Committee recommendation
Office of Criminal Justice Plans and Analysis	$106,300	$105,800	
Commission on the Arts and Humanities	159,400	59,100	$159,100
1978 supplemental	(100,000)		
Office on Aging	646,200	643,900	643,900
Office on Latino Affairs	139,800	109,600	109,600
Boxing and Wrestling Commission	40,000	25,000	
Board of Appeals and Review	93,600	93,200	207,500
Educational Institution Licensure Commission	81,900	64,300	
1978 Supplemental	(57,000)		
Commission on the Status of Women	54,100	53,900	53,900
Commission on Judicial Disabilities and Tenure	82,100	74,700	74,700
Board of Labor Relations	111,600	111,100	111,100
Commission on Healing Arts Licensure	199,300	165,300	
1978 Supplemental	(50,000)		
Judicial Nomination Commission	32,300	27,400	27,400
Law Revision Commission	390,200	370,000	370,000
Board of Equalization and Review	114,600	114,300	
Washington Metropolitan Council of Governments	239,500	228,600	228,600
Washington Area Convention and Visitors Association	100,000	99,000	99,000
Chamber of Commerce	52,000	51,700	51,700
Minority Business Opportunity Commission	175,000		
Total, special mission activities	2,817,900	2,396,900	2,136,500
1978 supplemental	(207,000)		

Office of Criminal Justice Plans and Analysis.—The Committee has not approved the transfer of the Criminal Justice Plans and Analysis activities from the Municipal Planning Office. A sum of $105,800 has been approved for the activity and this amount is included in the budget totals for the Municipal Planning Office. As discussed in greater detail on page 34 of this report, the Committee fully expects the Criminal Justice Plans and Analysis unit to expedite the Committee's request to prepare a study and proposal for expanded alternatives to incarceration.

Commission on the Arts and Humanities.—An appropriation of $159,100 is recommended for the operation of the Commission in the coming fiscal year. The Commission will have $276,000 available to it in 1979 from the National Endowment for the Arts for the purpose of program grants. The request for an additional $100,000 in program grants is approved.

The Committee has denied the 1978 supplemental request for the Commission on the Arts.

Office on Latino Affairs.—The Committee recommends the sum of $109,600 for fiscal year 1979, which is $30,200 less than was requested. The increases proposed for travel, printing, equipment and reclassification of existing positions have not been allowed.

Boxing and Wrestling Commission.—The Committee has not allowed the transfer of these activities out of the Department of Licenses, Inspections, and Investigations. An appropriation of $25,000 is recommended for this activity and these funds are included in the budget totals of the Department of Licenses, Inspections, and Investigations.

Board of Appeals and Review.—The Committee has transferred the responsibilities of the Board of Equalization and Review to this agency and included in the budget totals $114,300 for this activity. Total funding for the Board is $207,500.

Educational Institution Licensure Commission.—The Committee has not approved the creation of an additional bureaucratic element for these activities which were previously performed by the University of the District of Columbia but instead has transferred the activities to the Department of Licenses, Inspection, and Investigations. An appropriation of $64,300 has been approved for this activity and the funds have been included in the budget totals approved for the Department of Licenses, Inspections, and Investigations.

The Committee has denied the supplemental request for 1978 for the Educational Licensure Commission.

Commission on Judical Disabilities and Tenure.—The sum of $74,700 is recommended for 1979, which is $7,400 less than requested and reflects the denial of one clerical position requested. Funds requested for legal investigative services have been approved.

Commission on Healing Arts Licensure.—The Committee has not approved the creation of an additional bureaucratic element for these activites and has, therefore, not approved transferring these activities from the Department of Licenses, Inspections, and Investigations. An appropriation of $165,300 is recommended for this activity and these funds have been included in the totals recommended for the Department of Licenses, Inspections, and Investigations.

The Committee has denied the 1978 supplemental request for the Commission on Healing Arts Licensure.

Judicial Nomination Commission.—The appropriation of $27,400 is recommended for this Commission. The reduction of $4,900 reflects denial of a portion of the request for additional contractual services.

Law Revision Commission.—The Committee recommends the appropriation of $370,000 for fiscal year 1979, a reduction of $20,200. The request to convert the five temporary positions allowed in fiscal year 1978 to permanent status is denied.

Board of Equalization and Review.—The Committee has not approved the creation of still another independent office for this activity but has instead transferred the responsibilities of this Board to the Board of Appeals and Review. An appropriation of $114,300 is recommended for this activity and is included in the budget totals recommended for the Board of Appeals and Review.

Metropolitan Washington Council of Governments.—The Committee recommends the appropriation of $228,600 as the District's share of the Council of Government's budget for fiscal year 1979. This allowance reflects a voluntary reduction of $5,300.

Minority Business Opportunity Commission.—The Committee has denied the proposed appropriation of $175,000 requested to commence operations of this new commission. The Committee has been advised that it is the city's policy to treat minority contractors fairly and properly, and many of the laws passed by the Congress include provisions mandating the use of minority contractors.

Public Safety

The Committee recommends a total of $265,961,200 for fiscal year 1979 for public safety activities funded in this appropriation. This allowance is $8,451,600 below the amount requested and $512,600 below the amount recommended by the House. A total of $889,700 in supplemental funds for 1978 is also recommended.

A comparative summary by agency follows:

PUBLIC SAFETY

Activity	Appropriation 1978	Budget estimates 1978 and 1979	House allowance	Committee recommendations
Metropolitan Police Department	$134,864,300	$140,004,100	$135,941,300	$135,941,300
Fire Department	49,941,500	52,032,200	48,409,700	48,409,700
Courts:				
Appeals	1,799,800	[1] 2,039,000	2,030,700	2,030,700
Superior	20,039,800	[1] 21,048,600	21,328,900	20,924,900
1978 supplemental		(66,300)	( )	(66,300)
District of Columbia Court System	5,502,700	[1] 4,651,400	4,632,300	4,632,300
Public Defender Service	1,940,000	2,660,500	2,532,800	2,532,800
Bail Agency	799,700	1,017,100	866,600	936,600
National Guard	294,300	281,500	281,500	281,500
Department of Corrections	48,588,900	50,678,400	50,450,000	50,271,400
1978 Supplemental		(1,073,400)	( )	(823,400)
Total, public safety	263,771,000	274,412,800	266,473,800	265,961,200
1978 supplemental	( )	(1,139,700)	( )	(889,700)

[1] City recommendation.

Police and Fire Disability Retirements

For a number of years the Committee has expressed concern over the large percentage of disability retirements by police officers and firefighters in the District of Columbia. Each year during the budget hearings there has been a discussion of this problem with the Police Chief and the Fire Chief, and each year the Committee has been assured that the retirement system was operating properly and abuses that had occurred in earlier years had been eliminated.

This year, in addition to the usual discussions with the two chiefs, an extensive hearing was held with members of the Police and Firemen's Retirement and Relief Board. In the opinion of the Committee the abuses of the present system have not been eliminated. Disability retirements have been more the rule than the exception, and this practice should not be allowed to continue.

PERCENTAGE OF DISABILITY RETIREMENTS

As will be noted in the tabulation that follows, the percentage of disability retirements in 1969 was 98 percent of total retirements. Congressional action in 1970 and 1974 provided several contributing factors to the reduction of the percentage to the 55 percent figure reflected for 1977.

The table referred to follows:

RETIREMENTS

	Total	Disability	Percent
Calendar year:			
1966	201	177	88
1967	201	185	92
1968	254	244	96
1969	241	237	98
1970	176	171	97
1971	234	194	83
1972	191	146	76
1973	187	112	60
1974	145	75	52
1975	175	108	62
1976	171	102	60
1977	175	96	55

INCREASED COST OF PENSION PAYMENTS

The total cost of pension payments has continued to increase, as is shown below, from over $8 million in 1965 to $34.4 million in 1977 with the percentage of the total for disability payments remaining fairly constant between 80 and 90 percent.

The figures referred to follow:

PENSION PAYMENTS

	Total	Disability	Percent
Fiscal year:			
1965	$9,598.5	$8,331.5	87
1966	10,318.3	8,946.0	87
1967	12,138.0	10,560.1	87
1968	14,206.2	12,487.2	88
1969	15,956.0	14,168.9	89
1970	17,989.6	16,100.7	90
1971	21,962.2	19,480.5	89
1972	23,318.5	20,520.3	88
1973	28,393.4	24,418.3	86
1974	31,505.5	26,464.6	84
1975	35,027.1	29,212.6	83
1976	38,861.0	31,943.7	82
1977	42,923.3	34,429.9	80

COMPARISON OF DISABILITY RETIREMENTS IN SELECTED CITIES

In comparison with other police and fire retirement systems, the District's record as far as percentage of disability retirements is the highest of any major city in the nation. At the end of fiscal year 1976, the latest date comparative statistics are available, more than 4 of every 5 District retirees received a disability pension; only 19 percent of all District police and fire pensioners were receiving normal service retirement benefits. The pattern in most other cities is completely reversed. In New York City and Los Angeles, for example, 81 percent of the retirees were on normal service annuities compared with only 19 percent on disability pensions.

The following table shows that of the other 14 cities, only two, Baltimore and Denver, have over half of their retirees on the disability rolls. In neither case, however, did the disability rate exceed 60 percent whereas the District's exceeds 80 percent. Half of the cities shown in the table have fewer than 20 percent of their retirees on disability status.

The table referred to follows:

POLICE AND FIRE RETIREMENT ROLLS IN SELECTED CITIES

[End of fiscal year 1976]

City	Total retirees	Percent normal service retirees	Percent disability retirees
Atlanta	491	74	26
Baltimore	1,271	43	57
Chicago [1]	1,716	84	16
Denver [2]	321	40	60
Detroit	4,320	90	10
Indianapolis	928	82	18
Los Angeles	5,481	81	19
Minneapolis	697	78	22
New Orleans [2]	606	91	9
New York City	15,601	81	19
Pittsburgh	1,131	84	16
San Antonio	292	79	21
Seattle	958	58	42
St. Louis	1,160	68	32
Washington, D.C.	3,633	19	81

[1] Fire retirees only. [2] Police retirees only.

YEARS OF SERVICE AND EMPLOYMENT STATUS

From 1973 through 1977, a total of 488 police officers and firefighters were added to the disability rolls which constitutes nearly 3 of every 5 retirements awarded during the last 5 years. As the following table shows, one-third of these disability retirees had been on the force 10 years or less. At the other end of the spectrum, however, almost another one-third (31 percent) of the disabled individuals retired with 20 years or more of service, which also qualifies them for a regular pension. The Committee is deeply concerned over the degree to which employees who are eligible for a normal service retirement are instead receiving disability pensions.

The table referred to follows:

PROFILE OF NEW POLICE AND FIRE DISABILITY CASES (1973-77)

	Number	Percent of total
Total new disability cases	488	100
Years of service:		
With 10 or less years of service	160	33
With 11 to 19 years of service	178	36
With 20 or more years of service	150	31
Employment status:		
Employed	196	40
Full time	(130)	(27)
Part time	(66)	(13)
Unemployed	146	30
Over age 50	105	22
Other [1]	[1] 41	8

[1] Includes deceased retirees and those who did not file complete reports.

OUTSIDE EMPLOYMENT OF DISABILITY RETIREES

At least 40 percent of those retiring on disability in the past 5 years have obtained employment despite their disabling condition. In fact, those with outside jobs outnumbered those who are unemployed by a margin of 4 to 3. In addition, 2 out of every 3 disability retirees with outside jobs are employed on a full-time basis, and several are holding two jobs, a full-time position as well as a part-time job. As a result, disability pensioners who have outside jobs often earn more in retirement than they would be receiving as a police officer or firefighter.

The types of employment in which these disability retirees engage are varied, but in most instances require a state of health comparable to that required for many police and firefighter duties, particularly limited-duty assignments. Quite a number of the pensioners are performing security-type duties in both the public and private sectors. Other employment includes bus and truck drivers, laborers, teachers and instructors, a football coach, salesmen, private investigators, maintenance workers, carpenters and management positions. It is difficult to understand the concept whereby an individual who is not physically able to serve in some meaningful capacity in the police or fire departments is capable of engaging in full-time outside employment which, in many cases, is more demanding than the duties of active police officers or firefighters. No effort appears to be made to provide limited duties to officers who develop temporary or limited physical disabilities, or to return those who recover from their disabilities to positions with their department.

EQUALIZATION CLAUSE FOR POLICE AND FIRE RETIREES

Another provision that unnecessarily drives up the cost of the District's police and fire pension program is the so-called "equalization clause", which provides annuity increases to retired employees based on the salary of current workers. In contrast to most public retirement plans and police and fire systems throughout the country which only offer limited cost-of-living adjustments, the equalization approach passes pay increases given to current employees along to all retirees as well. The effect of this provision is to give retired individuals a promotion after retirement that is equivalent to the percentage increase awarded to employees who are still on the force serving the city and its residents.

The cost of this provision can be enormous. Over the last 25 years for example consumer prices in the Washington area have risen about 130 percent while the post-retirement escalator for police and fire annuitants has soared more than 250 percent. Put another way, employees who retired just 10 years ago have seen their pensions grow not only with inflation but with an added 10 percent bonus on top. That simply is not fair to the taxpayers of the city.

The Committee recognizes that the equalization provision was originally modeled after the armed services escalator; but Congress changed that 20 years ago. The city of Detroit also had this provision but removed it 10 years ago. Thus the District is about the last place you can go to find a system where retirees not only beat inflation but come out ahead as well. The Committee supports the efforts to eliminate this provision for all members of the retirement system.

REASSESSMENT OF DISABILITY RETIREMENT PROGRAM

The need for a full reassessment of the disability program is clearly indicated. Legislation is pending that addresses benefit reforms and financing procedures. There are several administrative actions the Board has indicated can be taken that would effectively reduce the cost of this program and provide a more equitable retirement system for all retirees from these two departments. Steps should be taken immediately to bring this program under control and stop the abuses and the rapidly increasing costs of disability retirements. Accordingly, the Committee has with some reluctance accepted the House recommendation to reduce the 1979 requests for police pension and relief and firemen's retirement and disability $10,000,000, of which $7,050,000 relates to police pensions and $2,950,000 is for the Fire Department. A total of $54,937,500 will be available for these two accounts for pension payments in fiscal year 1979. The Committee's only reluctance is with the lack of firm support for a reduction that totals a full $10,000,000 and belief that this amount may not be available through administrative or other reforms in one year. If a full $10,000,000 cannot be saved through reforms after a full and complete effort by the city, the Committee would recognize the need to provide additional funding.

Metropolitan Police Department.—A total of $135,941,300 is recommended for the operation of the Department in 1979, which is an increase of $1,077,000 over 1978 appropriations and a net decrease of $4,062,800 below the amount requested in the 1979 budget. The allowance includes $2,987,200 to maintain the average uniform strength at 4,141 officers throughout the fiscal year. As noted above, the Committee has reduced the request for police pension and relief payments by $7,050,000.

Fire Department.—The sum of $48,409,700 is recommended for the Fire Department, which is $1,531, 800 below the 1978 appropriation and $3,622,500 less than requested, reflecting the decrease of $2,950,000 in the request for firemen's retirement and disability payments. The Committee recommendation will allow the department to continue operations at the 51-company level currently in effect. The requested resources to reestablish one rescue squad have not been allowed.

Court of Appeals.—The bill includes $2,030,700 for the Court of Appeals during 1979, an increase of $230,900 over 1978 and $8,300 less than the city recommendation for 1979 due to a base adjustment reflecting final action on the 1978 appropriation bill.

Superior Court.—An appropriation of $20,924,900 is recommended for the Superior Court, which is $885,100 over the 1978 allowance. The Committee has recommended the transfer of 35 positions and $439,000 to the Department of Transportation to implement the new parking enforcement program.

The Committee has approved two positions and $35,000 more than included in the regular request for 1979 to strengthen the previously all volunteer legal assistance project to prosecute crimes associated with child abuse cases. The Committee has not approved the request for funds to continue the operation of a decentralized community probation office (Project SCORP) which is currently financed through a Federal grant.

The Committee has recommended approval of the 1978 supplemental request totaling $66,300 for the Superior Court, as requested.

District of Columbia Court System.—The sum of $4,632,300 is recommended for 1979, which is a net decrease of $870,400 below the current level of appropriations and reflects the transfer of Criminal Justice Act funds to the Public Defender Service as proposed in the budget.

Public Defender Service.—A total of $2,532,800 is proposed for the next fiscal year, which is a net increase of $592,800 reflecting the transfer in of appropriations for Criminal Justice Act funds to the Public Defender Service as proposed in the budget.

Bail Agency.—The Committee recommends a total of $936,600 for the Bail Agency which is the full amount requested for 1979.

National Guard.—The Committee recommends the appropriation of $281,500, as requested, for the District's support of the National Guard during 1979.

Department of Corrections.—The Committee recommends the appropriation of $50,271,400 for fiscal year 1979, which is $407,000 below the request and $178,600 less than was recommended by the House. $228,400 of this reduction below the 1979 request reflects adjustments due to the final action on the 1978 appropriation bill. The balance of the reduction, or $178,600, is based on the Committee's approval of a 5.7-percent increase in the funds to be available for food. Additional funds needed for food should be obtained by realinements in the $3,270,000 proposed by the Department for reprogramings in fiscal year 1979. The Committee feels that food is a priority need and that the Department should give priority consideration to food requirements in its reprograming action to provide for food needs which exceed the actual 5.7 percent cost increase, as reported by the Department.

The Committee recommends approval of $823,400 for the 1978 supplemental request for the Department of Corrections which is $250,000 less than requested. The Committee has provided $450,000 to compensate the Department for the loss of reimbursements from the Federal Bureau of Prisons instead of the $700,000 requested. This action is based on information provided to the subcommittee in July 1978 regarding the actual reduction in reimbursements from the Federal Bureau of Prisons from the level that had been projected by the Department.

Education

A total of $283,605,400 is recommended for fiscal year 1979 for the operation of the public school system and the University of the District of Columbia. This allowance is $706,800 above the amount requested and $1,404,200 above the amount recommended by the House. The sum of $68,600 in additional appropriations for 1978 is also recommended.

A comparative summary by agency follows:

EDUCATION

Activity	Appropriation 1978	Budget estimates 1978 and 1979	House allowance	Committee recommendation
Public Schools	[1] $223,556,000	[2] $239,043,600	[2] $238,543,600	[2] $239,947,800
University of the District of Columbia	41,123,200	43,855,000	43,657,600	43,657,600
1978 supplemental	(.....)	(143,600)	(.....)	(68,600)
Total, education	264,679,200	282,898,600	282,201,200	283,605,400
1978 supplemental	(.....)	(143,600)	(.....)	(68,600)

[1] Includes $21,814,000 for transfer to the teachers' retirement fund.
[2] Includes $21,705,000 for transfer to the teachers' retirement fund.

The Committee has included language in the bill, as requested by the city, which allocates specific amounts to the District of Columbia Public Schools, and teachers' retirement fund, and the University of the District of Columbia. A provision providing for the transfer of appropriations to the retirement fund has also been approved.

Public Schools.—The Committee recommends a total of $239,947,800 for the operation of the public school system, including $21,705,000 for transfer to the teachers' retirement fund, during the next fiscal year. This allowance is a net increase of $16,391,800 over the 1978 appropriation and $904,200 more than requested by the city reflecting the following actions recommended by the Committee:

1. An additional $1,865,800 is recommended by the Committee to be used for the maintenance of public school facilities as originally requested by the Board of Education. The city request for this activity in fiscal year 1979 is $5,392,000 which is approximately the same amount that has been provided since 1970. Since 1970 school space has increased by more than 40 percent and cost has increased by over 70 percent and therefore the funds for maintenance must also be increased.

2. The Committee has denied the request for six positions and $114,900 for creation of a new facilities planning unit. The Committee has approved 14 positions and $317,292 for the "Buildings and Grounds Division" and 6 positions and $159,045 for the Planning Division. These two divisions should be able to adequately handle this area of responsibility for the school system in fiscal year 1979. The Committee does note that the school system has just completed a major capital improvement program and a major effort to identify unneeded facilities and therefore activities in this area should lessen in 1979.

3. The Committee has denied the three positions and $71,700 for the Division of Research and Evaluation.

4. Due to the delay in opening of modernized sections of Roosevelt High School until fiscal year 1980 the funds needed to operate those sections are also deferred.

5. The Committee has also recommended various necessary adjustments based on final action on the 1978 bill.

The following reflects the allocation of funds by activity in comparative form:

PUBLIC SCHOOLS

Activity	Estimate 1979	House allowance	Committee recommendation
Elementary-secondary education	$128,684,400	$128,645,700	$128,418,500
Career development	5,289,700	5,289,700	5,289,700
Special education	16,481,500	16,481,500	16,481,500
Continuing education	3,483,000	3,483,000	3,483,000
Central services	35,604,600	35,593,900	35,593,900
Facilities	36,972,100	37,309,900	39,127,900
Instructional support	5,955,700	5,941,900	5,941,900
Central management	6,572,600	6,298,000	6,111,400
Adjustment reflecting unallocated adjustment in 1978 act		−500,000	−500,000
Total, public schools	[1] 239,043,600	[1] 238,543,600	[1] 239,947,800

[1] Includes $21,705,000 for transfer to the Teachers' Retirement Fund.

TOTAL RESOURCES

Based on appropriations recommended in this bill a total of $291,171,100, including $21,705,000 for transfer to the Teachers' Retiremen

Fund, will be available for the public elementary and secondary schools of the District of Columbia during the next fiscal year, composed of the following:

Item	Fiscal year 1979
Operating expenses:	
Appropriations recommended in bill	$239, 947, 800
Federal grants	38, 917, 500
Other grants and reimbursements	205, 800
Total, operating expenses	279, 071, 100
Capital outlay	12, 100, 000
Total	[1] 291, 171, 100

[1] Includes $21,705,000 for transfer to the teachers' retirement fund.

The amount recommended is again the largest ever provided for the operation of the District's public school system. Enrollment continues to decline. Pupil membership has dropped from 146,283 in 1968 to 116,595 in 1977 and is anticipated to drop to 111,700, a loss of 4,895 pupils, in the coming school year.

Pupil membership statistics for this period follow:

PUPIL MEMBERSHIP, 1968-69 THROUGH 1978-79

Date	Enrollment	Decrease
October 1968	146, 283	
October 1969	145, 584	699
October 1970	142, 857	2, 727
October 1971	139, 650	3, 207
October 1972	136, 783	2, 867
October 1973	132, 438	4, 345
October 1974	128, 389	4, 049
October 1975	126, 568	1, 821
October 1976	122, 586	3, 982
October 1977	116, 595	5, 991
October 1978 (estimate)	111, 700	4, 895

Appropriations during these years have increased from $86,114,000 in fiscal year 1968 to $239,947,800 as recommended for fiscal year 1979.

Based on the recommendations in the bill, per pupil expenditures in 1979 will total $2,148, of which $1,908 will be from District funds and $240 will be from Federal funds. The average pupil-teacher ratio during the coming year is estimated to be 26 to 1.

The allowance recommended includes supplies, equipment and maintenance costs for the additions to the Burrville as well as the new Fort Lincoln, Shaw and Morgan schools. Increases requested for health benefits, degree differential, research and planning staff improvements, and strengthening special education programs have been approved. Language earmarking $7,257,800 for the maintenance of schools is again included in the bill.

University of the District of Columbia.—The Committee recommends approval of appropriations totaling $43,657,600, which is an increase of $2,534,400 over the current year level and a decrease of $197,400 below the amount requested, reflecting adjustments based on final enactment of the 1978 appropriation bill.

A comparative allocation of the funds by activity follows:

UNIVERSITY OF THE DISTRICT OF COLUMBIA

Activity	1979 estimate	House allowance	Committee recommendation
General academic instruction	$13,942,600	$13,879,800	$13,879,800
Career instruction	7,694,000	7,659,500	7,659,500
Public service	949,000	944,700	944,700
Academic support	4,093,600	4,075,200	4,075,200
Student services	5,619,400	5,594,100	5,594,100
Institutional support	11,556,400	11,504,300	11,504,300
Total, University of the District of Columbia	43,855,000	43,657,600	43,657,600

The allowance recommended includes increases requested to cover the costs of within grades and inflation as well as the additional costs of social security benefits. The Committee has also allowed the funds proposed for operation of the new boiler plant at the Van Ness campus which is scheduled for occupancy in January 1979.

The Committee recommends a total of $68,600 for the 1978 supplemental request for the University of the District of Columbia. These funds are to assist the university with relocation expenses resulting from the university's consolidation process. Funds to establish a veterinary education program have been denied.

Recreation

The Committee recommends a total of $18,392,700 for the Department of Recreation for fiscal year 1979. This recommendation is $284,700 below the amount requested and is the same as the House allowance reflecting adjustments based on final action on the 1978 bill.

Consistent with action on the 1978 bill the Committee has not allowed the two additional positions and funds proposed for the National Children's Island and again directs the Department to absorb these positions and costs from existing resources.

The Committee has approved the 1978 supplemental request of the Department of Recreation for additional pool maintenance expenses, as requested.

A comparative tabulation follows:

RECREATION

Activity	Appropriation 1978	Budget estimates 1978 and 1979	House allowance	Committee recommendation
Department of Recreation	$17,551,000	$18,677,400	$18,392,700	$18,392,700
1978 supplemental		(58,000)		(58,000)

Human Resources

The Committee recommends a total of $283,321,300 for fiscal year 1979 for the Department of Human Resources and the District of Columbia General Hospital. This allowance is $11,153,500 below the amount requested and $1,446,400 below the amount recommended by the House. The sum of $8,086,000 in additional appropriations for 1978 is also recommended for welfare payments.

A comparative summary by agency follows:

HUMAN RESOURCES

Activity	Appropriation 1978	Budget estimates 1978 and 1979	House allowance	Committee recommendation
Department of Human Resources	$283,462,300	$266,983,200	$258,883,500	$257,437,100
1978 supplemental	(----------)	(9,353,900)	(----------)	(8,086,000)
District of Columbia General Hospital		27,491,600	25,884,200	25,884,200
Total, human resources	283,462,300	294,474,800	284,767,700	283,321,300
1978 supplemental	(----------)	(9,353,900)	(----------)	(8,086,000)

Department of Human Resources.—A total of $257,437,100 is included in the bill for the operation of the various activities of the Department during the next fiscal year, which is $9,546,100 below the amount requested and $1,446,400 below the House allowance.

A comparative summary of the recommendation follows:

DEPARTMENT OF HUMAN RESOURCES

Activity	1979 estimate	House allowance	Committee recommendation
Executive Direction and Support	$19,896,300	$19,703,800	$18,718,600
Payments Assistance Administration	115,520,400	107,924,000	107,017,300
Social Rehabilitation Administration	44,226,000	44,156,100	44,156,100
Mental Health Administration	51,759,600	51,678,700	51,678,700
Community Health and Hospital Administration	31,483,400	31,323,400	31,768,900
Narcotics Treatment Administration	4,097,500	4,097,500	4,097,500
Total, Human Resources	266,983,200	258,883,500	257,437,100

The reduction recommended includes the usual adjustments reflecting final action on the 1978 bill as well as the denial of the increase of $5,057,100 requested for welfare payments, and the $906,700 requested to annualize the 1978 cost-of-living allowance for welfare programs. As this allowance was not provided in 1978 it is not necessary to provide the annualization. Despite the resources made available to the Department over the years, in a number of instances above those requested, the rate of ineligibles on the rolls remains too high. It was testified that the error rate in terms of all Categories of error is approximately 42.7 percent. Questions have been raised regarding the work performance and productivity of social service and case workers who process applications for public assistance. Questions have been raised regarding the lack of accountability regarding workers who underperform, underachieve, and consistently make errors and are subsequently not disciplined. Questions have been raised about the collective will of the city administration and leadership to correct the high level of error rates that have continued. The Committee therefore requests monthly reports from the Payments Assistance Administration to report on the progress in hiring the recertification workers and on efforts and progress to reduce the error rates in the welfare program.

The action of the Committee in denying these funds is not to be construed as a directive to deny assistance to those individuals who are eligible and in need of help and the Committee directs the city to make the needed program improvements so funds will become available to make a cost-of-living adjustment to the welfare program recipients. It is the desire of the Committee that immediate steps be taken to remove ineligibles from the rolls and to prevent adding people to the

rolls who are not qualified under current regulations. It is noted that the Committee approved full funding for 180 new positions in 1978 to make these improvements, as requested by the City. Currently there are 100,064 people on the welfare rolls which represents 14.2 percent of the total population of the city. Approximately 1 out of 7 persons living in Washington is receiving public assistance.

A tabulation showing the welfare caseload, number of persons and costs for the past 16 years follows:

PUBLIC ASSISTANCE CASELOAD AND EXPENDITURES, REGULAR CATEGORIES

[Dollar amounts in thousands]

Fiscal year	Average monthly—		Expenditures		
	Caseload	Recipients	Total	Local (District of Columbia)	Federal
1963	11,067	27,597	$13,562.3	$5,387.6	$8,174.7
1964	10,134	25,202	12,511.6	4,799.7	7,711.9
1965	10,647	26,862	13,350.8	5,216.6	8,134.2
1966	11,375	29,368	14,614.5	5,526.8	9,087.7
1967	11,998	30,563	16,479.4	6,897.6	9,581.8
1968	13,086	33,294	19,432.6	8,794.0	10,638.6
1969	14,880	38,447	23,055.8	10,957.1	12,098.7
1970	19,603	49,983	34,814.4	17,932.3	16,882.1
1971	29,615	75,034	56,801.8	29,749.4	27,052.4
1972	40,629	103,157	78,552.5	41,390.5	37,162.0
1973	46,229	117,211	94,013.0	49,727.1	44,285.9
1974:[1]					
July 1 to Dec. 31, 1973	48,155	122,008	50,772.4	26,847.9	23,924.5
Jan. 1 to June 30, 1974	34,298	106,267	42,766.8	23,159.9	19,606.9
1975	36,608	108,707	98,633.5	54,248.1	44,385.4
1976	38,222	108,917	101,029.9	56,396.3	44,633.6
1977	36,669	101,447	100,198.8	55,612.3	44,586.5
1978	[2] 37,861	[3] 103,621	[3] 89,447.8	48,086.1	41,361.7

[1] Fiscal year 1974 separated because adult cases transferred to Social Security Administration effective Jan. 1, 1974.
[2] Projected for 1978.
[3] Actual appropriations.

The Committee has allowed increases requested for annualization of the additional amounts provided in the 1978 Appropriation Act, staffing and maintenance of the Forest Haven Therapy Center, the guaranteed student loan program, the child abuse program, the Medicaid program, increases in rates for board and care payments to foster parents as well as group foster homes, and clothing allowances and tuition for foster children. The Committee is concerned, however, that the increase in foster care rates to be paid in 1979 represents a 30-percent increase and that the foster care rates are already high as compared to rates paid in the metropolitan area. A total of $15,504,700 is recommended for the care and treatment of the mentally retarded at Forest Haven.

Department of Human Resources Expenditures for Overhead

A large amount of public resources are spent by the Department of Human Resources on overhead activities which do not provide any direct or even measurable benefit to the indigent and disadvantaged clients of the Department. The Department is organized into six divisions, as follows: Executive Direction and Support, Payments Assistance Administration, Social Rehabilitation Administration, Mental Health Administration, Community Health and Hospital Administration, and the Narcotics Treatment Administration. The Executive Direction and Support Division is entirely an overhead

operation that is intended to serve all of the Department. Each of the other operating divisions also has an administrative office.

The following table shows the resources devoted to overhead activities as highlighted by the city's budget document:

1. Executive Direction and Support	$18, 718, 600
2. Payments Assistance Administration—Administrator	236, 700
3. Social Rehabilitation Administration—Administration	964, 300
4. Mental Health Administration—Administrator	996, 400
5. Community Health and Hospital Administration—Administrator	924, 000
6. Narcotics Treatment Administration—Office of Administrator	674, 400
Total	22, 514, 400

It is the Committee's belief that more of DHR resources should be devoted to directly aid the clients of the Department and less should be spent on the bureaucracy. The Committee has therefore recommended that a five percent reduction be made to all offices of the Executive Direction and Support. This action is also possible because D.C. General is no longer a responsibility of the Department which has the result of reducing the Department's workload.

D.C. Village

The Committee recommends a total of $9,396,900 for D.C. Village which is $445,500 more than provided by the House. The additional funds are to provide an additional 35,000 hours of nursing care at D.C. Village. The Committee requests that D.C. Village and D.C. General work together more closely to help transfer the long-term care and geriatric patients who are at D.C. General to D.C. Village where they should be.

Dog Pound

The Committee is concerned at the reports regarding rude and unresponsive behavior directed toward the public by the city employees who work at the Dog Pound. The Committee expects the employees at the Dog Pound and in fact all city employees to act responsibly and with courtesy in carrying out their duties to serve the public.

Supplemental Request—1978

The Committee recommends approval of $8,086,000 for the 1978 supplemental request needed because the welfare program caseloads did not decline as previously projected. The Committee has not allowed the 1978 supplemental requests for $728,400 needed to pay cost-of-living allowances to welfare program recipients. All the remaining 1978 supplemental request made by the Department of Human Resources have been denied.

District of Columbia General Hospital.—The Committee recommends a total of $25,884,200 for 1979 to be paid as a lump sum appropriation to the District of Columbia General Hospital Commission as provided in District of Columbia Law 1–134. This legislation provides for the establishment of the Commission as an independent agency of the District of Columbia government, effective October 1, 1977, "to govern the District of Columbia General Hospital, to develop broad policies for the Hospital, and to analyze the role of the Hospital as part of the District of Columbia public health care system." Under that Act funds totaling $27,021,000 and 2,275 positions were transferred from

the Department of Human Resources' 1978 budget. The Committee allowance of $25,884,200, which is $1,607,400 less than was requested in the city budget, along with receipts from Medicaid, Medicare, insurance and other reimbursements and collections from patients, will provide resources totaling $44,784,200 for the operation of the hospital during the next fiscal year. The request for 149 additional positions, to be transferred from the central pool has been denied. A total of 2,275 positions is continued for the next fiscal year.

The Committee was advised that the estimates for reimbursements are based on past practice. It is hoped that with the installation of the new computer system, a more accurate forecast of estimated collections will be possible. The Commission is urged to make a more active effort to collect payments due the hospital than was made when the hospital was under the jurisdiction of the Department of Human Resources.

GEORGETOWN UNIVERSITY

Subsequent to the hearings, representatives of Georgetown University requested the appropriation of funds, beyond the amount in the fiscal year 1979 budget for the operation of the District of Columbia General Hospital, which would be paid to the University in support of its patient care and educational programs at the hospital as well as provide scholarship funds for District of Columbia residents at the University's Schools of Medicine and Dentistry. Currently there is no authorization for such an appropriation. The Committee urges the City Council to enact legislation to permit D.C. General to have the flexibility, as necessary, to provide assistance to the several institutions that provide support services to the hospital. When the necessary legislation is enacted and financing is proposed in the usual manner, the Committee will be pleased to give favorable consideration for assistance to Georgetown University.

Improvements Needed at District of Columbia General Hospital

The Committee concurs with the action of the House in denying the increase of $1.6 million requested for D.C. General Hospital. In taking this action the Committee recognizes that total funds estimated to be available to D.C. General Hospital in fiscal year 1979, based on the city estimates, will still increase by $1.9 million coming from Federal assistance and increased collections. This represents an increase of almost five percent in the total funding for D.C. General Hospital in fiscal year 1979 over the level available to the Hospital in fiscal year 1978.

The Committee is aware that the hospital has been reaccredited for a 1-year period and that the reaccreditation report highlighted continuing deficiencies which relate primarily to fire and building code hazards. None of the requested $1.6 million was intended to address these building deficiencies.

The Hospital Council of the National Capital Area has reported that as of December 1977 hospital patients 65 years of age and over stay at an average of 58.1 days in D.C. General. This compares to the metropolitan area average of 15.2 days for the same age group. The average length of stay for all patients admitted to D.C. General was 13.9 days as compared to the metropolitan area average of 7.8 days. Clearly, D.C. General Hospital is being used substantially as

a long-term care facility and as a geriatric care facility contrary to its mission as an acute care hospital. The Director of D.C. General has estimated that as much as 16 percent of D.C. General's average daily census are long-term care patients that could be more appropriately treated at lower cost in long-term care facilities.

The Committee urges the city and the newly appointed Hospital Commission to move aggressively in this regard. The Committee has provided an additional $445,500 for D.C. Village which is the city's long-term care facility. These funds provided for D.C. Village are to be used to obtain under contract an additional 35,000 hours of skilled and intermediate nursing care. With this additional funding, the Committee expects D.C. General to substantially reduce its population of long-term care patients currently at the institution. This action should substantially reduce the cost of operations at D.C. General and, thereby, reduce some of the fiscal pressures that the institution faces.

Transportation

The Committee recommends a total of $78,735,200 for fiscal year 1979. This allowance is $1,183,500 above the amount requested and $7,354,300 above the House allowance. Supplemental appropriation for fiscal year 1978 is recommended in the amount of $1,082,200.

A comparative summary by agency follows:

TRANSPORTATION

Activity	Appropriation, 1978	Budget estimates, 1978 and 1979	House allowance	Committee recommendation
Department of Transportation	$24,395,700	$32,061,600	$25,890,800	$33,245,100
1978 supplemental		(5,595,100)	(----------)	(2,336,900)
Washington Metropolitan Area Transit Commission	73,200	72,300	72,300	72,300
School Transit Subsidy	4,300,000	4,385,000	4,385,000	4,385,000
Washington Metropolitan Area Transit Authority (Metro)	30,945,000	41,032,800	41,032,800	41,032,800
1978 supplemental		(−1,254,700)	(----------)	(−1,254,700)
Total, transportation	59,713,900	77,551,700	71,380,900	78,735,200
1978 supplemental		(4,340,400)	----------	(1,082,200)

Transportation

Department of Transportation.—The sum of $33,245,100 is recommended for the operating expenses of the Department during 1979, which is $1,183,500 above the request and $7,354,300 above the House allowance. The Committee has approved $2,418,000 in 1979 totals that had been requested by the city in the 1978 supplemental request for the parking enforcement program which represents the nonpersonnel elements of the 1978 supplemental request.

The Committee has recommended approval of the new parking and enforcement program and is well pleased with the city's efforts in this regard. Estimates for local revenues in the financial plan for fiscal year 1979 have been increased by $17,450,000 to reflect the effect of this program, as proposed by the city.

The Committee has disallowed $440,500 to be applied as a general base reduction to be offset by the U.S. Department of Energy, energy conservation grant. The Committee will be pleased to restore these funds when the city has taken action to comply with the requirements of the Federal grant.

The Committee has allowed $2,336,900 for the 1978 supplemental request of the Department of Transportation.

Condition of City Streets

The Committee is concerned with the poor condition of the streets throughout the city. As is shown in the tabulation following, large unobligated balances have remained at the close of each of the fiscal years commencing with 1972. Resources made available to the Department through the appropriation of District funds as well as Federal grants have not been utilized to keep the various roadways in a satisfactory state of repair. It is recognized that appropriations for fiscal year 1978 have only recently become available for obligation due to the late enactment of the 1978 Appropriation Act. $11,743,000 including Federal funding from the Economic Development Administration, will be available for resurfacing and upgrading the city's streets during 1978, which is $5,438,000 above the 1977 level. With the resources available, the Department should embark on a rigorous program to put the city streets, both arterial and residential, in a satisfactory condition.

The tabulation referred to follows:

DISTRICT OF COLUMBIA COSTS FOR MAINTENANCE, RESURFACING, AND RECONSTRUCTION OF STREETS

	Appropriation	Obligations	Unobligated balance
Operating expense maintenance:			
1973	$1,260,600	$1,237,458	$23,142
1974	1,223,100	1,228,059	—4,959
1975	824,400	605,341	219,059
1976	886,300	822,204	64,096
Transitional quarter	221,600	220,597	1,003
1977	830,900	828,403	2,497
Non-Federal aid resurfacing:			
1973	675,000	784,097	739,252
1974	679,000	591,393	817,859
1975	790,600	1,571,370	36,489
1976	1,240,000		1,276,489
Transitional quarter and 1977	1,405,000	1,577,088	1,104,401
	Appropriation and estimated Federal match	**Total obligations**	**Unobligated balance**
Federal aid resurfacing and reconstruction: [1]			
Unobligated balance at end of 1972	$2,794,000	$4,666,440	$7,460,440
1973	2,295,556	1,835,798	7,920,198
1974	3,188,889	3,473,792	7,635,295
1975	6,766,667	5,075,976	9,325,986
1976	3,000,000	8,085,275	4,240,711
Transitional quarter and 1977	3,000,000	4,020,283	3,220,428

[1] Includes Federal reimbursements.

Concern has also been expressed regarding the large number of engineer and engineering technician positions that have been continued on the rolls despite the decline in freeway and other major highway construction work by the Department. Since 1975 the number of engineers actually employed has been reduced by 18 and the number authorized by 72, and that there are 45 fewer technicians on the rolls and 124 fewer authorized. A continued effort must be made to further reduce the number of positions in these categories.

The Committee has approved the increases requested for electrical energy, equipment replacement and maintenance of an additional segment of the Streets for People Program as well as the request for funds to finance a program to recover the cost of damages to traffic signal equipment.

School Transit Subsidy.—The sum of $4,385,000 is recommended for the payment of subsidies during fiscal year 1979. This is an increase of $85,000 over the current year level to cover the increase in bus fares that went into effect July 1, 1977, as well as additional trips by students each day due to a change in the curriculum program. Under this program certain specialized schools offer courses to students on a citywide basis which requires travel between schools during the school day.

Washington Metropolitan Area Transit Authority.—A total of $41,032,800 is recommended, as requested, for the District's share of the Metrorail and Metrobus operating subsidies for fiscal year 1979. This allowance is $10,087,800 above current year appropriations and includes an increase of: (1) $2,783,700 for Metrobus operating subsidies; (2) $1,199,800 for Metrorail debt service; and (3) $6,104,300 for Metrorail operating subsidies reflecting the opening of additional sections of the system.

The Committee has accepted the $1,254,700 reduction offered by the city in the 1978 supplemental request for its contribution to Metro. This reduction is being offset by internally generated funds at WMATA.

Environmental Services

The Committee recommends a total of $72,119,800 for fiscal year 1979 for the two agencies funded by this appropriation. This allowance is $1,190,100 below the amount requested and $842,700 below the amount recommended by the House. The sum of $1,550,400 in additional appropriations for 1978 is also recommended.

A comparative summary by agency follows:

ENVIRONMENTAL SERVICES

Activity	Appropriation, 1978	Budget estimates, 1978 and 1979	House allowance	Committee recommendation
Department of Environmental Services	$59,382,000	$63,331,500	$63,028,400	$62,185,700
1978 supplemental		(1,219,700)		(1,100,400)
Washington Aqueduct	8,809,900	9,978,400	9,934,100	9,934,100
1978 supplemental		(450,000)		(450,000)
Total, environmental services	68,191,900	73,309,900	72,962,500	72,119,800
1978 supplemental		(1,669,700)		(1,550,400)

Department of Environmental Services.—A total of $62,185,700 is recommended for the sanitation and water services to be provided by this Department during the next fiscal year. The increase of $2,803,700 over 1978 appropriations includes adjustments reflecting final action on the 1978 Appropriation Act, annualization of new

positions granted in 1978 on a part-year basis, staffing and maintenance of new sewage disposal facilities due to open in fiscal year 1979. The Committee has deferred $892,700 of funding for the operation of the Nitrification and Multi-Media facilities due to a delay in their opening date to the last quarter of fiscal year 1980.

Water Billings

The Committee is concerned that problems continue to exist with the water billing program and that billings are late, often inaccurate and that a $10 million backlog of delinquent water bills exists. The Committee directs the Department to move aggessively to correct these problems of mismanagement and to make a true effort to collect the delinquent water bills. The Committee has increased the city's estimate of local revenues by $5 million in anticipation of the Department's compliance with the Committee's request.

Steam Production

The Committee again must request the Department to prepare a cost effective proposal with regard to refitting Reduction Center No. 1 to include a steam production capability. The Committee has included an additional $50,000 in its budget recommendations for the Department to be used for the purpose of complying with this request. As Reduction Center No. 1 is located immediately adjacent to the Pepco electricity production plant, an excellent market for the steam should exist. The Committee has been informed that the City could earn in excess of $4,000,000 a year from the production and sale of steam to Pepco.

1978 Supplemental Request

With regard to the 1978 supplemental request, the Committee has approved $1,030,400 for the extra expenses for electrical energy due to rate increases for electricity being used at existing facilities and $70,000 for the rental of two landfill compactors as requested by the Department of Environmental Services. All other requests made by the Department of Environmental Services for 1978 supplemental funding have been denied.

Washington Aqueduct.—The Committee has approved the sum of $9,934,100 for 1979 which will provide for a continuation of activities at the current level. The increase of $1,124,200 over the current year level is allowed to cover the additional costs due to inflation and within grade requirements.

The 1978 supplemental requests of the Washington Aqueduct of $450,000 for the increased cost of electricity for the pumping and treatment of water have been approved, as requested.

Personal Services

The Committee recommends a total of $69,300,000 for fiscal year 1979 to cover the costs of annual cost-of-living salary increases. This amount includes $36 million for the pay increase which was effective October 1, 1977, and $33,300,000 for an estimated 5½ percent increase to be effective October 1, 1978. The sum of $7 million in additional appropriations for 1978 is also recommended.

Settlement of Claims and Suits

The Committee recommends a total of $322,800 for payment of claims and suits that have been settled since the submission of the budget. This allowance represents settlement of 12 claims in the amount of $72,800 and $250,000 to compensate Robert J. Pierce who was injured during the Hanafi Muslim takeover of the District Building on March 7, 1977.

All supplemental requests for the Settlement of Claims and Suits have been approved as part of the regular 1979 budget.

Repayment of Loans and Interest

The Committee recommends a total of $120,400,000 for fiscal year 1979 for this appropriation. Of this amount, $110,500,000 is for the repayment of principal and interest on money borrowed from the U.S. Treasury to finance the District's capital outlay program and $9,900,000 for the repayment of RFK Stadium bonds. The Committee has not approved the $1,200,000 requested for interest payments on short-term borrowing from the commercial market. The city continues to have authority as provided by the Congress in the Act of August 1937 by Public Law 95–314 to borrow from the U.S. Treasury for its short-term cash flow needs. The Committee feels that it is unnecessary for the city to incur the added expense for this short-term borrowing as long as the authority exists to borrow from the U.S. Treasury. The Committee therefore directs that the U.S. Treasury continue to loan to the city to help the city meet its short-term cash needs.

The following sets forth the allocation of the amount recommended:

REPAYMENT OF LOANS AND INTEREST

	Principal	Interest	Total
Construction loan	$21,527,000	$88,111,900	$109,638,900
Stadium loan	831,600	29,500	861,100
Stadium bond payment	9,900,000		9,900,000
Total	32,258,600	88,141,400	120,400,000
1978 supplemental		(475,800)	(475,800)

The Committee recommends approval of $475,800 in 1978 supplemental funding for the additional repayment of loans and interest due from the transition quarter. Notice of the additional interest due for the transition quarter was received too late for inclusion in the regular 1978 budget.

Captial Outlay

The Committee recommends a total of $77,490,000 for the fiscal year 1979 capital improvements program consisting of repayment of hospital grants and 33 construction projects. This allowance is $52,300,000 less than requested due to the utilization of unobligated balances for a public school project and deferral of action on the request for additional funding for the Washington Civic Center. The Committee has recommended approval of the city's request for an addition to the Dog Pound.

A tabulation summarizing the amounts requested and recommended by general category follows:

CAPITAL IMPROVEMENTS PROGRAM

Item	Estimate	House allowance	Committee recommendation
District of Columbia obligations	$1,247,600	$1,247,600	$1,247,600
Public building construction:			
Public Schools	15,400,000	[1] 12,100,000	[1] 12,100,000
University of the District of Columbia, Van Ness campus	2,500,000	2,500,000	2,500,000
Metropolitan Police Department	3,517,200	3,517,200	3,517,200
Fire Department	530,000	530,000	530,000
Department of Human Resources	3,275,000	3,000,000	3,275,000
Department of General Services	5,270,000	5,270,000	5,270,000
Municipal Planning Office	49,000,000		
Total, public building construction	79,492,200	26,917,200	27,192,200
Department of Transportation	6,307,000	6,307,000	6,307,000
Department of Environmental Services	12,003,200	12,003,200	12,003,200
Washington Aqueduct	30,740,000	30,740,000	30,740,000
Total, capital improvements program	129,790,000	77,215,000	77,490,000

[1] Remaining $3,300,000 of estimate to be funded from unobligated balances of completed projects.

District of Columbia Obligations

The Committee recommends approval of the request of $1,247,600 for the annual repayment of a portion of Federal grants made in past years to private hospitals and the District's share of construction costs at Saint Elizabeths Hospital, as provided by law.

Public Building Construction

A total of $27,192,200 is recommended for public building construction in 1979. This allowance is $52,300,000 below the amount requested as noted above.

Public Schools.—The Committee approves the three public school projects requested and has provided a total of $12,100,000 in new budget (obligational) authority for these projects instead of $15,400,000 as proposed in the budget. This allowance, which is $3,300,000 less than requested, reflects the utilization of unobligated balances from completed school projects to partially fund the alterations to the Ellington School for the Performing Arts. The sum of $1,100,000 in new appropriations is also recommended for this project. The Committee has also approved the sum of $11,000,000 requested for the modernization of Eastern Senior High School. The proposed reprograming of $1,639,000 from unobligated balances for alterations to the M. M. Washington Health Occupations Cluster is also approved.

University of the District of Columbia

The sum of $2,500,000 is recommended for equipment related to the phase II construction program at the Van Ness campus, as requested.

An appropriation of $56,696,400 was included in the 1978 District of Columbia Appropriation Act, Public Law 95–288, as approved June 5, 1978. This appropriation was approved subject to the city's full compliance with certain actions and conditions as set out in the language of the act and the joint explanatory statement of the committee of conference.

The language referred to in the 1978 act follows:

> *Provided further,* That none of the funds appropriated for the construction of the University of the District of Columbia shall be obligated until the Mayor, the City Council, and the House and Senate Committees on Appropriations have approved the consolidated master plan for the construction of the University of the District of Columbia.

These funds will remain unavailable for obligation until a new consolidated master plan for the university has been approved by the House and Senate Committees on appropriations.

Metropolitan Police Department.—The requested appropriation of $3,517,200 for the construction and equipping of an addition to the First District Station House is recommended by the Committee.

Fire Department.—The Committee recommends $530,000, as requested, for the replacement of five pumping engines and one aerial ladder truck.

Department of Human Resources.—The sum of $3,275,000 is recommended, as proposed by the city, for two permanent improvement projects consisting of $2,000,000 for Forest Haven Children's Center, $1,000,000 for District of Columbia Village, and $275,000 for renovations and an addition to the Dog Pound.

Department of General Services.—The Committee has approved $4,500,000 for permanent improvements at various District-owned buildings. Also approved is $770,000 requested for elimination of fire hazards at the District Building.

Municipal Planning Office.—The Committee has deferred action on the requested appropriation of $49,000,000 for construction of the Washington Civic Center.

The initial appropriation for the Washington Civic Center, totaling $27,000,000, was contained in the 1978 District of Columbia Appropriation Act, Public Law 95–288, approved June 5, 1978. This appropriation was approved subject to the city's full compliance with certain actions and conditions as set out in the language of the act and the joint explanatory statement of the committee of conference.

The language referred to in the 1978 act follows:

> : *Provided,* That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic Center * * *.

The applicable portion of the statement accompanying the conference report (House Report 95–1139) is as follows:

The conference action provides * * * and (3) $27 million for the Washington Civic Center as proposed by the House and stricken by the Senate contingent upon the following actions and conditions:

> 1. Commitment of private sector development prior to the actual release of appropriated funds for the Civic Center. The development is to be sufficient to generate tax revenue to pay 100 percent of the annual net fixed costs associated with the Civic Center following 3 full years of operation of the Civic Center;

2. Implementation of District of Columbia Law 2-58 to assure that the cost of site acquisition and the operating costs of the Civic Center in the early years of operation will be paid from the tax revenues authorized by this public law;

3. Reexamination of the total cost including site acquisition cost of the Civic Center to be paid from appropriated funds with the objective of reducing it;

4. The above conditions to be addressed and considered in a report to the Subcommittees on Appropriations for the District of Columbia of the House of Representatives and the Senate. The report is to be approved by both subcommittees before the Civic Center appropriation is available for obligation.

Inasmuch as only 2 months has elapsed since the 1978 appropriation act was signed into law, there has not been sufficient time for the city to comply with these mandates and to secure the necessary approvals before the funds will become available for obligation. It is therefore unnecessary to provide the funds requested in the 1979 budget for construction and the Committee recommends deferral of action on the request at this time. The Committee has included the following language in the capital outlay section of the bill:

> *Provided*, That no funds in this Act shall be used for any purpose in connection with the Washington Civic Center until there is full compliance with the provisions of the plan mandated by the District of Columbia Appropriation Act, 1978, Public Law 95-288, approved June 5, 1978 * * *.

Department of Transportation.—A total of $6,307,000 is recommended for seven continuing projects relating to bridge and street repairs and improvements as well as an extension of the bicycle network.

Department of Environmental Services.—The Committee recommends the appropriation of $12,003,200 for 13 projects as requested.

Washington Aqueduct.—The requested appropriation of $30,740,000 for the McMillan Water Treatment Plant replacement and the Washwater and Basin Sludge Disposal projects is approved.

Summary of Capital Outlay Recommendations

The following tabulation sets forth the capital improvements program requested in the budget and the Committee's recommendations by project:

SUMMARY OF CAPITAL OUTLAY RECOMMENDATIONS

Project title	Estimate	House allowance	Committee recommendation
DISTRICT OF COLUMBIA OBLIGATIONS			
Washington Hospital Center	$312,700	$312,700	$312,700
Childrens Hospital, grant No. 1	6,600	6,600	6,600
Childrens Hospital, grant No. 2	3,500	3,500	3,500
Providence Hospital	61,500	61,500	61,500
Casualty Hospital	19,500	19,500	19,500
Columbia Hospital	18,000	18,000	18,000
Georgetown Hospital	29,800	29,800	29,800
Sibley Hospital	65,600	65,600	65,600
Cafritz Memorial Hospital	30,400	30,400	30,400
St. Elizabeths Hospital	700,000	700,000	700,000
Total, District of Columbia obligations	1,247,600	1,247,600	1,247,600

Project title	Estimate	House allowance	Committee recommendation
PUBLIC BUILDING CONSTRUCTION			
Public Schools:			
Ellington School for the Performing Arts (Western)	4,400,000	1,100,000	1,100,000
Eastern Senior High modernization	11,000,000	11,000,000	11,000,000
Alterations to M.M. Washington Health Occupations Cluster	(1,639,000)	(1,639,000)	(1,639,000)
Total, public schools	15,400,000	12,100,000	12,100,000
University of the District of Columbia: Phase II equipment—Van Ness Campus	2,500,000	2,500,000	2,500,000
Metropolitan Police Department: 1st District Station House addition	3,517,200	3,517,200	3,517,200
Fire Department: Fire apparatus replacement	530,000	530,000	530,000
Department of Human Resources:			
Forest Haven permanent improvements, Children's Center, Laurel, Md	$2,000,000	$2,000,000	$2,000,000
District of Columbia Village permanent improvements	1,000,000	1,000,000	1,000,000
Renovations and addition to Dog Pound	275,000		275,000
Total, Department of Human Resources	3,275,000	3,000,000	3,275,000
Department of General Services:			
Permanent improvements, various District buildings	4,500,000	4,500,000	4,500,000
Elimination of fire hazards, District Building	770,000	770,000	770,000
Total, Department of General Services	5,270,000	5,270,000	5,270,000
Municipal Planning Office: Washington Civic Center	49,000,000		
Total, public building construction	79,492,200	26,917,200	27,192,200
Department of Transportation:			
Highway fund:			
Bridge replacement rehabilitation	3,232,000	3,232,000	3,232,000
Local street improvements and extensions	1,850,000	1,850,000	1,850,000
Traffic operations improvements	100,000	100,000	100,000
Resurfacing Federal aid streets	400,000	400,000	400,000
Safety improvements	200,000	200,000	200,000
Southern Avenue	425,000	425,000	425,000
Bicycle network	100,000	100,000	100,000
Total, Department of Transportation, highway fund	6,307,000	6,307,000	6,307,000
Department of Environmental Services:			
General fund:			
Relief of flooding and drainage complaints	1,500,000	1,500,000	1,500,000
I-95 site development, Lorton, Va	4,700,000	4,700,000	4,700,000
Solid Waste Reduction Center air quality improvements, SWRC No. 1	270,000	270,000	270,000
Solid Waste Reduction Center, SWRC No. 1	230,000	230,000	230,000
Solid Waste Reduction Center water conservation improvements	500,000	500,000	500,000
Total, Department of Environmental Services, general fund	7,200,000	7,200,000	7,200,000
Sanitary sewage works fund:			
Service sewer extensions	400,000	400,000	400,000
Advance of paving and miscellaneous	400,000	400,000	400,000
Dueling Branch relief sewer	398,200	398,200	398,200
Conversion of sewage pumping units	200,000	200,000	200,000
Rehabilitation of sanitary sewer system	1,855,000	1,855,000	1,855,000
Total, Department of Environmental Services, sanitary sewage works fund	3,253,200	3,253,200	3,253,200
Water fund:			
Water service extensions and fire hydrants	1,000,000	1,000,000	1,000,000
Replacement of undersized and defective watermains	350,000	350,000	350,000
Truck and secondary watermains	200,000	200,000	200,000
Total, Department of Environmental Services, water fund	1,550,000	1,550,000	1,550,000
Total, Department of Environmental Services	12,003,200	12,003,200	12,003,200
Washington Aqueduct:			
McMillan water treatment plant replacement	28,100,000	28,100,000	28,100,000
Washwater and basin sludge disposal, Dalecarlia and Georgetown	2,640,000	2,640,000	2,640,000
Total, Washington Aqueduct	30,740,000	30,740,000	30,740,000
Total, capital improvements program	129,790,000	77,215,000	77,490,000

GENERAL PROVISIONS

Limitation of Payments for Street Lighting

The Committee has inserted language prohibiting the use of funds for the payment of any judgment entered by any court against the government of the District of Columbia requiring the payment for electric current for street lighting at a rate in excess of two cents per kilowatt-hour. This prohibition is an addition to section 207 which has been carried in bills for many years making such sums as may be necessary available for refunds and the payment of judgments. The bill continues the restriction in section 206 on the use of appropriations for the payment of rates for electric current for street lighting in excess of two cents per kilowatt-hours for current consumed.

Personnel Ceiling

The Committee has expanded the personnel ceiling contained in section 213 to include reimbursable and capital outlay positions, and has specified the number of positions available for the District of Columbia Public Schools and the District of Columbia General Hospital along with monthly reporting requirements for those two agencies. The ceiling recommended totals 37,239 filled, authorized positions and specifically designates 9,703 for Public Schools, 406 reimbursable positions, 821 capital outlay positions and 2,275 positions for the District of Columbia General Hospital. The provision limiting temporary or part-time employees to the number available for the same month of the preceding fiscal year is continued as carried in previous appropriation bills.

Transmittal of Fiscal Year 1980 Budget

The Committee has inserted language providing that the annual budget of the District of Columbia government for fiscal year 1980 shall be transmitted to the Congress by not later than February 1, 1979.

Informant Pay For Tax Information

The request for authority for payment of rewards for tax information pursuant to the District of Columbia Revenue Recovery Act of 1977 is approved, and language authorizing the use of the applicable funds of the District for such payments is included in section 217.

Limitation on Use of CETA Employees

The Committee has added five new sections to the bill that will help remedy the CETA program abuses that have occurred in recent years. These reforms are intended to help insure that the CETA program is used to provide temporary employment and training assistance to unemployed individuals and not primarily as a subsidy to basic city operations. The general thrust of these reforms would be as follows:

1. Section 220 would not permit funds in the bill to be used to supplement the salary of a CETA employee if the effect is to provide a salary in excess of the GS–9, step 1, level.
2. Section 221 would not permit funds in the bill to be used to supplement the salary of a CETA employee if that employee has been a CETA employee for a total period in excess of 24 months.

3. Section 222 would not permit funds in the bill to be used to supplement the salary of a CETA employee who works for an elected official or who works on a city council committee staff. Sections 220, 221, and 222 would not go into effect until 90 days after the President signs the bill into law to provide for a transition period for the individuals involved.

4. Section 223 would not permit funds in the bill to be used to supplement the salary of a CETA employee hired subsequent to the passage of this bill if that CETA employee is to be assigned to an agency of the city government that already has CETA employees in number in excess of ten percent of its appropriated employment base. This provision would not apply to agencies with 10 or fewer employees.

5. Section 224 would make section 220, 221, 222, and 223 inoperative on the date of enactment of the Comprehensive Employment and Training Act Amendments of 1978.

CHANGES IN EXISTING LAW

Pursuant to clause 3, rule XXI of the House of Representatives, the following statements are submitted describing the effect of provisions in the accompanying bill that directly or indirectly change the application of existing law.

1. Language is included in title I authorizing the Temporary Commission on Financial Oversight of the District of Columbia to appoint, fix the compensation of, and remove an Executive Director and additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5 of the United States Code, and those provisions of title 5 relating to the appointment in the competitive service. Also included is a provision that the Executive Director may be paid compensation at a rate not to exceed the rate prescribed for level IV of the Federal Executive Salary Schedule which is presently $50,000 per annum. This language is recommended since the basic legislation does not provide authority to appoint and remove staff. Language clarifying the status of Commission personnel has been inserted in the bill as requested.

2. A language provision under "General Operating Expenses" provides that for the purpose of assessing and reassessing real property in the District of Columbia, $5,000 shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not in excess of $100 per diem. 5 U.S.C. 3109, reads in part: "An agency * * * may pay a rate for services in excess of the daily equivalent of the highest rate payable under section 5332 of this title only when specifically authorized by the appropriation or other statute authorizing the procurement of the services."

3. Under "General Operating Expenses," there is language providing that appropriations available solely for employees' disability compensation shall remain available until expended. 31 U.S.C. 718 provides, in part, that:

> No specific or indefinite appropriation made subsequent to August 24, 1912, in any regular annual appropriations act shall be construed to be permanent or available continuously without reference to a fiscal year—unless it is made in terms expressly providing that it shall continue available beyond the fiscal year for which the appropriations Act in which it is contained makes provision.

4. A language provision under "General Operating Expenses" provides that $325,000 shall be available for the settlement of property damage claims not in excess of $1,500 each and personal injury claims not in excess of $5,000 each. The Language provides an exemption, within specified limits, from Sec. 1–904 of the District of Columbia Code, which states, in part, that: ". . . all settlements entered into by the Commissioner of the District of Columbia acting under the terms and provisions of sections 1–902 to 1–905 shall be presented to the Congress, together with a brief statement of the nature of the claim or suit, the amount claimed, and the amount of the settlement with a summary of the evidence and circumstances under which the settlement was made." The authority to settle claims and suits was delegated to the District of Columbia Corporation Counsel by Reorganization Order No. 50 (June 26, 1953). The language provision contained in the bill allows the Corporation Counsel to settle and pay claims within the specified limits without first presenting each claim to the Congress. That exemption prevents unnecessary delays in the settlement process for smaller claims and encourages plaintiffs to settle for amounts within the specified ceilings.

5. A language provision is included under "General Operating Expenses" providing that $3,000,000 for the District of Columbia's contribution toward the expenses of the Temporary Commission on Financial Oversight of the District of Columbia shall remain available until expended. 31 U.S.C. 718 provides, in part, that:

"No specific or indefinite appropriation made subsequent to August 24, 1912, in any regular annual appropriations Act shall be construed to be permanent or available continuously without reference to a fiscal year . . . unless it is made in terms expressly providing that it shall continue available beyond the fiscal year for which the appropriations Act in which it is contained makes provision."

6. Under "Public Safety," language provides an exemption for two classes of passenger motor vehicles from 31 U.S.C. 638a(c) which states, in part, that:

> Unless otherwise specifically provided, no appropriation available for any department shall be expended—
>
> (1) to purchase any passenger motor vehicle (exclusive of buses and ambulances) at a cost—in excess of the maximum price thereof, if any, established pursuant to law by a Government agency.

The classes of motor vehicles exempted from the price ceiling are vehicles used for police, firefighting and fire prevention activities. Because of the special requirements for those types of vehicles the costs exceed the maximum set for passenger motor vehicles for regular use.

7. Language included under "Public Safety" provides that funds appropriated for expenses under the Criminal Justice Act of 1974 (Public Law 93–412) for fiscal year 1979 shall be available for obligations incurred under that Act in fiscal year 1975, fiscal year 1976, fiscal year 1977, and fiscal year 1978. This language is necessary due to the long time lag between the time attorneys are appointed and the time vouchers are presented to the District for payment.

8. Language is included under "Education" authorizing the District of Columbia Public Schools to accept not to exceed 31 motor vehicles for exclusive use in the driver education program.

9. Language is included under "Transportation" providing that a

portion of the funds shall be available for the District of Columbia's share of the Metrobus operating subsidy for fiscal year 1977.

10. Under "Capital Outlay," there is language that provides that the amount appropriated shall remain available until expended. This language is needed to provide an exemption to 31 U.S.C. 718 and to allow the funds to remain available beyond fiscal year 1979. The exemption is needed because of the length of time required for the design and construction of capital projects.

11. Section 208 of the "General Provisions" provides an exemption from the requirement of subsection (b) of Section 5 of the District of Columbia Public Assistance Act of 1962 (D.C. Code, Sec. 3–204(b)). That section states that:

> Such amount as referred to in subsection (a) of this section shall not be less than the full amount determined as necessary on the basis of the minimum needs of such person as established in accordance with such regulations.

Because of financing constraints, the District has regularly budgeted for a percentage of the public assistance payment standard, rather than for the full amount as required by Sec. 3–204(b) of the District of Columbia Code. The 1979 appropriations bill contains funds to continue welfare payments at 69 percent of the February 1977 cost-of-living standard.

12. Language is included in section 216 of the "General Provisions" requiring the annual budget for the District of Columbia government for fiscal year 1980 to be transmitted to the Congress by not later than February 1, 1979. The District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93–198) does not provide a date certain for the transmittal of budgets to the Congress.

LIMITATIONS AND LEGISLATIVE PROVISIONS

The following limitations and legislative provisions not heretofore carried are recommended:

1. On page 2 in connection with "Salaries and expenses", Temporary Commission on Financial Oversight of the District of Columbia (new matter shown in italics):

: Provided, That the Temporary Commission on Financial Oversight of the District of Columbia shall have the power to appoint, fix the compensation of, and remove an Executive Director and additional staff members without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to the appointment in the competitive service. *For purposes of pay (other than pay of the Executive Director) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as Congressional employees.* The Executive Director may be paid compensation at a rate not to exceed the rate prescribed for level IV of the Federal Executive Salary Schedule.

2. On pages 6 and 7 in connection with "Education":

** * *, to be allocated as follows: $218,242,800 for the District of Columbia Public Schools, $21,705,000 for the Teachers' Retirement Fund, and $43,657,600 for the University of the District of Columbia*

3. On page 8 in connection with "Transportation":

: Provided further, That $1,263,400 of this appropriation shall be available for the fiscal year 1977 Metrobus operating subsidy

4. On page 10 in connection with "Capital Outlay":
: Provided, That no funds in this Act shall be used for any purpose in connection with the Washington Civic Center until there is full compliance with the provisions of the plan mandated by the District of Columbia Appropriation Act, 1978, Public Law 95-288, approved June 5, 1978

5. On pages 14 in connection with "General Provisions":
: Provided, That no part of any funds so appropriated shall be used for the payment of any judgment entered by any court against the government of the District of Columbia requiring the payment for electric current for street lighting at a rate in excess of two cents per kilowatt-hour for current consumed

6. On pages 16 and 17 in connection with "General Provisions" (Material stricken shown in brackets and new matter shown in italics):

SEC. 213. Appropriations in this title shall not be available, during the fiscal year ending September 30, [1978] *1979*, for the compensation of any person appointed—

(1) as a full-time employee to a permanent, authorized position in the government of the District of Columbia during any month when the number of such employees is greater than [36,000; or] *37,239: Provided, That—*

(A) positions within this city employment limitation shall be set aside as the maximum number of permanent, authorized employees as follows: Public Schools, 9,703; reimbursable positions, 406; capital outlay positions, 821; District of Columbia General Hospital, 2,275; and

(B) the District of Columbia Public Schools and the District of Columbia General Hospital shall not exceed their respective employment limitations and are hereby required to report monthly to the Mayor, for the purpose of maintaining controls on city-wide employment, regarding the total number of current employees and the total number of separations and filling of positions within their respective employment limitations; or

(2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year.

7. On page 17 in connection with "General Provisions":
SEC. 217. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, D.C. Law 2-20, approved September 23, 1977.

8. On page 18 in connection with "General Provisions":
SEC. 220. (a) No funds appropriated by this Act shall be available to pay any part of the salary of any employee of the government of the District of Columbia, or any department, agency, office, or other entity thereof, if any part of such employee's salary is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and the annual salary of such employee is in excess of that paid for the position of GS 9, Step 1, under the General Schedule, under section 5332 of title 5, United States Code.

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety day period following the date of the enactment of this Act.

9. On pages 18 and 19 in connection with "General Provisions":
SEC. 221. (a) No funds appropriated by this Act shall be available

to pay any part of the salary of an employee of the government of the District of Columbia, or any department, agency, office, or other entity thereof, if any part of such employee's salary is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and has been so paid for an aggregate period of at least twenty-four calendar months.

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety day period following the date of the enactment of this Act.

10. On page 19 in connection with "General provisions":

SEC. 222. (a) No funds appropriated by this Act shall be available to pay any part of the salary of any employee of the Council of the District of Columbia, or committee or subcommittee thereof, or any employee of any elected official of the government of the District of Columbia, if any part of the salary of any such employee is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute).

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety day period following the date of the enactment of this Act.

11. On pages 19 and 20 in connection with "General provisions":

Sec. 223. No funds appropriated by this Act shall be available to pay any part of the salary of any individual hereafter employed by any department, agency, office, or other entity of the government of the District of Columbia, having ten or more employees, if, at the time of such employment, any part of the salary of more than 10 per centum of the employees of such department, agency, office, or entity is paid partly from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and partly from funds of the District of Columbia.

12. On page 20 in connection with "General provisions":

Sec. 224. Notwithstanding any other provision of this Act, the provisions of Sections 220, 221, 222, and 223 of this Act shall be deemed repealed upon the date of the enactment of the Act entitled "An Act to amend the Comprehensive Employment and Training Act of 1973, to provide improved employment and training services, to extend the authorization, and for other purposes".

BUDGETARY IMPACT OF H.R. 13468

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
I. Comparison of amounts in the bill with the committee allocation to its subcommittees of amounts in the 1st concurrent resolution for 1979: Subcommittee on District of Columbia	500	261	500	290
II. Summary of functional category of 1979 budget amounts recommended in the bill:				
800 General government		3		3
850 Revenue sharing and general purpose fiscal assistance		258		287
III. Financial assistance to State and local governments for 1979 in the bill		241		241
IV. Projections of outlays associated with budget authority recommended in the bill:				
1979				260
1980				1
1981				
1982				
1983				
Future year				

Agency and item	New budget (obligational) authority, fiscal year 1978	Budget estimates of new (obligational) authority, fiscal years 1978 and 1979	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended by the Senate committee	Senate committee recommendation compared with—		
					New budget (obligational) authority, fiscal year 1978	Budget estimates of new (obligational) authority, fiscal years 1978 and 1979	House allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
TITLE I—TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA							
Salaries and expenses	$3,000,000	$3,000,000	$3,000,000	$3,000,000	----------	----------	----------
TITLE II—DISTRICT OF COLUMBIA FEDERAL FUNDS							
Federal payment	276,000,000	317,000,000	264,000,000	238,000,000	−$38,000,000	−$79,000,000	−$26,000,000
Payment in lieu of reimbursement for water and sewer services to Federal facilities	28,116,000	10,300,000	10,300,000	10,300,000 9,900,000	−17,816,000 +9,900,000	----------	----------
Federal payment to retire R. F. K. Stadium bonds	92,000,000	129,790,000	----------	−92,000,000	−92,000,000	−129,790,000	----------
Loans to the District of Columbia for capital outlay						+9,900,000	+9,900,000
Total, Federal funds	396,116,000	457,090,000	274,300,000	258,200,000	−137,916,000	−198,890,000	−16,100,000
DISTRICT OF COLUMBIA FUNDS—OPERATING EXPENSES							
General operating expenses	90,862,600	96,326,800 (3,203,200)	93,718,500	95,133,100 (2,719,400)	+4,270,500	−1,193,700 (−483,800)	+1,414,600 (+2,719,400)
1978 supplemental	263,771,000	274,412,800 (1,139,700)	266,473,800	265,961,200 (889,700)	+2,190,200	−8,451,600 (−250,000)	−512,600 (+889,700)
Public safety	264,679,200	282,898,600 (143,600)	282,201,200	283,605,400 (68,600)	+18,926,200	+706,800 (−75,000)	+1,404,200 (+68,600)
1978 supplemental	17,551,000	18,677,400 (58,000)	18,392,700	18,392,700 (58,000)	+841,700	−284,700	(+58,000)
Education	283,462,300	294,474,800 (9,353,900)	284,767,700	283,321,300 (8,086,000)	−141,000	−11,153,500 (−1,267,900)	−1,446,400 (+8,086,000)
1978 supplemental	59,713,800	77,551,700	71,380,900	78,735,200	+19,021,300	+1,183,500	+7,354,300
Recreation							
1978 supplemental							
Human resources							
1978 supplemental							
Transportation							

1978 supplemental		(4,340,400)		(1,082,200)		(−3,258,200)	(+1,082,200)
Environmental services	8,191,900	73,309,900	72,962,500	72,119,800	+3,927,900	−1,190,100	−842,700
1978 supplemental		(1,669,700)		(1,550,400)		(−119,300)	(+1,550,400)
Personal services	65,549,400	69,300,000	69,300,000	69,300,000	+3,750,600		
1978 supplemental		(7,000,000)		(7,000,000)			(+7,000,000)
Settlement of claims and suits			72,800	322,800	+322,800	+322,800	+250,000
1978 supplemental		(21,800)				(−21,800)	
Repayment of loans and interest	125,668,500	111,700,000	111,700,000	120,400,000	−5,268,500	+8,700,000	+8,700,000
1978 supplemental		(475,800)		(475,800)		(−)	(+475,800)
Total, operating expenses	1,239,449,800	1,298,652,000	1,270,970,100	1,287,291,500	+47,841,700	−11,360,500	+16,321,400
1978 supplemental		(27,406,100)		(21,930,100)		(−5,476,000)	(+21,930,100)
CAPITAL OUTLAY							
Capital outlay	129,173,400	129,790,000	77,215,000	77,490,000	−51,683,400	−52,300,000	+275,000
Total, District of Columbia	1,368,623,200	1,428,442,000	1,348,185,100	1,364,781,500	−3,841,700	−63,660,500	+16,596,400
1978 supplemental		(27,406,100)		(21,930,100)		(−5,476,000)	(+21,930,100)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1978 AND BUDGET ESTIMATES FOR 1979

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS

[Becomes available automatically under earlier or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are not included in the accompanying bill]

Agency and item	New budget (obligational) authority, fiscal year 1978	Budget estimate of new (obligational) authority, fiscal year 1979	Increase (+) or decrease (−)
(1)	(2)	(3)	(4)
Advances to stadium sinking fund, Armory Board (indefinite authorization to spend debt receipts)	$832,000	$832,000	.....
Repayable advances to the District of Columbia general fund (indefinite appropriation)	20,000,000	(1)	−$20,000,000
Total, permanent new budget (obligational) authority, Federal funds	20,832,000	832,000	−20,000,000

[1] The city contemplates securing short-term borrowing through private banks rather than continuing the current practice through the U.S. Treasury.

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95TH CONGRESS
2d Session
SENATE
REPORT
No. 95-1077

AMENDING TITLE 39 OF UNITED STATES CODE

AUGUST 9 (legislative day, MAY 17), 1978—Ordered to be printed

Mr. GLENN, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 2543]

The Committee on Governmental Affairs, to which was referred the bill (S. 2543) to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 2543 is to improve the enforcement procedures available to the Postal Service to prevent postal patrons from being victimized by a form of misrepresentation involving solicitation for goods or services in the guise of invoices, bills, or statements of accounts due.

BACKGROUND AND HISTORY

For some years, confidence men have been operating a variety of schemes which have in common the use of the U.S. mails to distribute false billings for goods and services. While individual citizens sometimes are the targets of such schemes, business concerns are the principal recipient of these phony invoices. The U.S. Postal Service Inspection Service recently estimated the loss by businesses to the operators of such schemes at $25 million annually. Businesses—even those which exercise sufficient bookkeeping care so as to be reasonably certain they have not been bilked—have complained of the annoyance and expense associated with what they see as a great proliferation of such phony billings in recent years.

The variations of these schemes are many and ever-changing. Four currently popular varieties include:

Solicitations for contributions for nonexistent minority or charitable causes.

Solicitations for payment of bills for advertisements or listings in imaginary or useless "business", "labor", or "ethnic" directories or publications.

Solicitations for listing in phony international business directories.

Demands for payment of previously mailed invoices for office supplies never ordered, and often never supplied.

Such schemes are not new. They have been operating for at least 30 years and gave rise 10 years ago to the enactment of provisions now codified in 39 U.S.C. 3001(d), which provided:

> (d) Matter otherwise legally acceptable in the mails which—
>
> (1) is in the form of, and reasonably could be interpreted or construed as, a bill invoice, or statement of account due; but
>
> (2) constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both;
>
> is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—
>
> (A) the following notice: "This is a solicitation of goods or services, or both, and not a bill, invoice, or statement of accounts due. You are under no obligation to make any payments on account of this offer unless you accept this offer", or
>
> (B) "in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe."

The vast bulk of these promotions, if they carried a warning at all, have used the notice provided for under subparagraph (A), rather than the alternative notice prescribed by Postal Regulations, which is in two parts, one in 30-point type and the second in 18-point type. Consequently, the Postal Service, effective December 8, 1978, utilized its authority under the statute to require that the previously permissive notice stipulated in the statute must appear, if used, in 30-point type.

At present, any solicitation for goods or services in the guise of a bill, invoice, or statement of account due, must bear a conspicuous notification to the recipient intended to warn in effect, that "this is not a bill."

The newly revised Postal Regulations, however, do not and cannot address the need to strengthen the administrative remedies available in the event of noncompliance. Nor would the simple outlawing of any such phony invoices address the situation, because of the disadvantageous burden of the proof and the fact that there is no way to uncover them prior to their mailing.

Recently, these schemes have been complicated by a variation involving boiler-room type telephone solicitations in advance of the mailed invoice. Testimony before the Subcommittee on Energy, Nu-

clear Proliferation, and Federal Services indicates these schemes are most common in the Los Angeles area. Since July of 1975, the Postal Inspector Service has been conducting investigations of more than 500 such schemes. It has arrested about 60 people for violating the mail fraud statutes.

The committee believes that vigorous investigation and, where warranted, criminal prosecution, are the best remedies to the situation pertaining—along with cautionary bookkeeping practices by recipients of such solicitations.

However, because criminal cases require a level of proof sometimes difficult to obtain, and because many of these schemes originate outside the United States, the committee believes the amendments to title 39, United States Code, made by S. 2543, are needed to improve the civil remedies in a way that will deny the operators of these schemes the fruits of their labors.

Committee Action

S. 2543 would amend section 3005(a) of title 39, United States Code, which is he civil false representation section, by inserting a provision specifically including the "mailing of matter which is nonmailable under section 3001(d) . . .". Thus, upon evidence satisfactory to the Postal Service that any person was engaged in conducting a scheme or device for obtaining money or property through the mail by means of mailing solicitations in the guise of bills, invoices or statements of accounts due without a proper notice as required by section 3001(d) and pertinent Postal Service Regulations, the Postal Service could issue an order provided for by section 3005(a).

Postal Service orders authorized by section 3005(a) have two effects. First, they direct the postmaster of the post office at which mail arrives, addressed to such person or his representative, to return such mail to the sender appropriately marked as in violation of section 3005(a), if the person, or his representative, is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender.

Second, such orders forbid the payment by a postmaster to the person or his representative of any money or postal note drawn to the order of either and provide for the return to the remitter of the sum named in the money order or postal note.

S. 2543 further strengthens these enforcement procedures by providing that, for purposes of the false representations provision (section 3005(a)), the mailing of matter which is nonmailable under section 3001(d) by any person shall constitute *prima facie* evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

A companion statute, 39 U.S.C. 3007, provides for injunctive relief by which a U.S. District Court, upon a showing of probable cause, can authorize the Postal Service to detain a defendant's incoming mail pending the adjudication of the false representation proceedings provided for under section 3005(a).

The effect of providing a cross reference between section 3001(d) and the false representations statute, section 3005(a), along with the

provision making the mailing of such solicitations that are legally "nonmailable" *prima facie* evidence in the civil proceeding, would be to permit the Postal Service, once it learns of the operation of such a scheme, to move to foreclose the transfer of funds from the intended victims to the operators of the scheme.

The committee considered the alternative of simply providing that solicitations for goods or services in the guise of bills, invoices, or statements of accounts due are nonmailable. That alternative, however, appears less effective for two reasons:

(1) There is no way for the Postal Service to prevent the mailing of such items, even if they are legally "nonmailable." If discovered in time, the Postal Service could stop delivery.

(2) Upon complaint and discovery of such mailings, the Postal Service still would face the difficulty of establishing an intent of misrepresentation before it could act against the mailers to bar the receipt of remittances.

Thus, it is the committee's belief that the provisions of S. 2543, by specifically including these mailings among those covered by the false representations statute if proper warnings are not prominently displayed, and by shifting the burden of proof in such instances, offer the best approach to the problem of insuring swift action against the perpetrators of such schemes.

The amendments made by the bill would not absolve individuals or businesses from the need to exercise care in their bookkeeping. Nor would they lessen the need for the Postal Service and Department of Justice to seek criminal penalties where warranted under the mail fraud statutes.

It is not the committee's intention to affect the operations of bona fide charitable organizations that may mail reminders of pledges freely given, although no legal obligation to pay may exist, in the general form of statements of accounts due.

Cost Estimate

There are no direct costs associated with S. 2543. The committee believes that the U.S. Postal Service may realize a small savings because the provisions of S. 2543 would tend to shorten the period of time needed to investigate and adjudicate civil actions involving misleading solicitations violative of section 3001(d) of title 39, United States Code.

Regulatory Impact Statement

The committee does not believe that S. 2543 would have any regulatory impact. The bill establishes no paper work requirement. There would be no impact on personal privacy as the result of the enactment of S. 2543.

Section-by-Section Analysis

S. 2543 amends section 3005(a) of title 39, United States Code, by—

(1) Inserting the words "including the mailing of matter which is nonmailable under section 3001(d) of this title" after "false represen-

tations." The effect of this provision is to specifically include solicitations in the form of bills, invoices, or statements of account due among the items covered by the false representations statute if they do not bear the warnings to recipients required by section 3001(d) or Postal regulations established pursuant to that section.

(2) Adding at the end of Section 3005(a) the provision that, for purposes of that section pertaining to civil action authorized against false representations circulated by mail, "the mailing of matter which is nonmailable under such section 3001(d) by any person shall constitute *prima facie* evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations." The effect of this provision is to burden the mailer of such material, which does not conform to pertinent statutory and regulatory forms, with the necessity to provide sufficient evidence to establish that he is not conducting a scheme or device involving false representations.

Agency Comments

The U.S. Postal Service, represented by the Chief Inspector for its Western Region and the assistant general counsel of its consumer protection office, testified in behalf of the provisions of S. 2543.

The Department of Justice, whose views were sought, provided the following:

Department of Justice,
Washington, D.C., July 6, 1978.

Hon. John Glenn,
Chairman, Subcommittee on Energy, Nuclear Proliferation and Federal Services, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is in response to your request for the views of the Department of Justice on S. 2543, a bill to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails.

Section 3005(a) title 39, United States Code, provides that, upon satisfactory evidence that a person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, the Postal Service may issue an order (1) directing the appropriate postmaster, upon receipt of mail addressed to that person, to return the mail to the sender without delivery, and (2) forbidding payment by the postmaster of postal money orders payable to such person.

The proposed legislation would permit the Postal Service to take similar action under section 3005(a) on deceptive mail solicitations for orders of goods or services designated as unmailable under section 3001(d), title 39, United States Code.

The proposed extension of administrative remedies available to the Postal Service would have no adverse impact upon the enforcement of Federal criminal statutes. Accordingly, whether this legislation should be enacted involves questions as to which the Department of Justice defers to the Postal Service.

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The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

TITLE 39, UNITED STATES CODE

* * * * * * *

PART IV—MAIL MATTER

* * * * * * *

CHAPTER 32. NONMAILABLE MATTER

* * * * * * *

S. 3001. Nonmailable matter

(a) * * *

* * * * * * *

(d) Matter otherwise legally acceptable in the mails which—

(1) is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due; but

(2) constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both;

is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

(A) the following notice: "This is a solicitation for the order of goods or services, or both, and not a bill, invoice, or statement of accounts due. You are under no obligation to make any payments on account of this offer unless you accept this offer"; or

(B) in lieu thereof, a notice to the same effect in words which

* * * * * * *

S. 3005. False representations; lotteries

(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, *including the mailing of matter which is nonmailable under Section 3001(d) of this title*, or is engaged in conducting a lottery, gift enterprise, or

scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which——

(1) directs the postmaster of the post office at which mail arrives, addressed to such a person or to his representative, to return such mail to the sender appropriately marked as in violation of this section, if the person, or his representative, is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender; and

(2) forbids the payment by a postmaster to the person or his representative of any money order or postal note drawn to the order of either and provides for the return to the remitter of the sum named in the money order or postal note.

For purposes of the preceding sentence, the mailing of matter which is nonmailable under section 3001(d) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

(b) The public advertisement by a person engaged in activities covered by subsection (a) of this section, that remittances may be made by mail to a person named in the advertisement, is prima facie evidence that the latter is the agent or representative of the advertiser for the receipt of remittances on behalf of the advertiser. The Postal Service may ascertain the existence of the agency in any other legal way satisfactory to it.

(c) As used in this section and section 3006 of this title, the term "representative" includes an agent or representative acting as an individual or as a firm, bank, corporation, or association of any kind.

(d) Nothing in this section shall prohibit the mailing of (1) a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery, or (2) tickets or other materials concerning such a lottery within that State to addresses within that State. For the purposes of this subsection, "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. (Amended Pub. L. 93–583, § 4, January 2, 1975, 88 Stat. 1916; Pub. L. 94–525, § 2, Oct. 17, 1976, 90 Stat. 2478.)

* * * * * * *

§ 3007. Detention of mail for temporary periods

(a) In preparation for or during the pendency of proceedings under sections 3005 and 3006 of this title, the United States district court in the district in which the defendant receives his mail shall, upon application therefor by the Postal Service and upon a showing of probable cause to believe either section is being violated, enter a temporary restraining order and preliminary injunction pursuant to rule 65 of the Federal Rules of Civil Procedure directing the detention of the defendant's incoming mail by the postmaster pending the conclusion of the

statutory proceedings and any appeal therefrom. The district court may provide in the order that the detained mail be open to examination by the defendant and such mail be delivered as is clearly not connected with the alleged unlawful activity. An action taken by a court hereunder does not affect or determine any fact at issue in the statutory proceedings.

(b) This section does not apply to mail addressed to publishers of newspapers and other periodical publications entitled to a periodical publication rate or to mail addressed to the agents of those publishers.

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Calendar No. 1000

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1078

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 991

TO ESTABLISH A DEPARTMENT OF EDUCATION AND FOR OTHER PURPOSES

together with

ADDITIONAL VIEWS

AUGUST 9 (legislative day, MAY 17), 1978.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
31-936 O WASHINGTON : 1978

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95TH CONGRESS
2d Session

SENATE

Calendar No. 1000

REPORT
No. 95-1078

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

AUGUST 9 (legislative day, May 17), 1978.—Ordered to be printed

Mr. RIBICOFF, from the Committee on Governmental Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 991]

The Committee on Governmental Affairs, to which was referred the bill S. 991 to establish a Department of Education in the executive branch, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

PURPOSE OF THE LEGISLATION

The basic purpose of S. 991 is to provide for the establishment of a Federal Department of Education. Today, there are more than 300 separate Federal education programs involving expenditures reaching nearly $25 billion. The Federal presence in education is substantial. Over 40 Federal departments and agencies are involved in education grants, services, and regulations.

The late Senator Hubert H. Humphrey, in discussing the need for a Department of Education noted last year;

> It is necessary to have a more efficient mechanism for the coordination of these numerous programs in a sensible, workable, and effective framework.

The purpose of S. 991 is to structure the Federal education effort in such a way that Federal education programs are able to adapt to the changing needs of the nation. S. 991 provides a mechanism for the

large array of Federal programs to be effectively coordinated. Its development reflects the following:

Education is important to the total learning population—it is a continuing process and includes lifelong and noninstitutional learning.

The Federal education effort should enhance the ability of public and nonpublic organizations as well as State and local education agencies to improve the quality of education and equality of access for all individuals.

The Federal education effort should be designed to help meet the future educational needs of our Nation.

The purpose of the bill is to make the Federal education effort more effective and coordinated.

Education in the United States has traditionally been a function of State and local governments and private institutions. Over the past 25 years, education has commanded the largest single share of State and local governmental expenditures—38 percent. The delivery of edu- institutions. The intention of S. 991 is to preserve this prerogative. There is a need to insure that the Federal presence in education should be supportive, helpful and effective. Not only would the Department of Education increase the visibility and attention given to education needs at the Federal level, but it is designed to increase the participation of families, communities, public and private schools, and state and local governments in this process.

The Department is thus designed around the following purposes:

(1) To insure that education receives appropriate emphasis at the Federal evel. By creating a Cabinet Department of Education, effective management, coordination, and leadership in Federal programs can be substantially improved. The relatively low bureaucratic status of the Office of Education means that education receives less attention from the Cabinet and the President. The large number of existing Federal education programs has created management problems at the Federal, State, local, and institutional levels. The scattering of programs across Federal agencies has resulted in poor coordination in addition to multiple, duplicative and even conflicting regulations. Fragmentation at the Federal level has led to piecemeal approaches to education and education-related problems.

(2) To assist the Federal effort in coordinating education activities and programs through interagency cooperation, technical assistance, and evaluation of program effectiveness.

The Secretary will be responsible for education programs within the Department. Additionally, the Secretary will head the Federal Interagency Committee on Education which would insure close coordination of Federal education activities to facilitate the resolution of common problems and promote effective planning and management of such activities.

In addition, the Secretary will provide technical assistance to education programs of other Federal departments and evaluate the effectiveness of education programs.

(3) To continue and strengthen the Federal commitment to insuring access to equal education opportunities. Equal educational opportunity has been and must remain a major educational goal of the Federal Government.

The Federal Government has acted to insure equality of educational opportunity for every American regardless of race, sex, age, ethnic heritage, economic disadvantage, or handicapping condition:

Racial minorities.—Through compliance efforts, technical assistance, and financial assistance the Federal Government has promoted racial desegregation.

Handicapped.—Through Public Law 94–142 (the Education for All Handicapped Children Act) and section 504 of the Rehabilitation Act of 1972, the handicapped are guaranteed an appropriate education.

Language minorities.—Several Federal programs help to deal with the problems of children with limited English language skills.

Women.—Several Federal programs, and statutes such as the Women's Educational Equity Act, and title IX of the 1972 education amendments, are designed to help end sex discrimination.

Compensatory education.—Title I of the Elementary and Secondary Education Act has provided compensatory education for the economically disadvantaged.

Access to higher education.—The Higher Education Amendments of 1972 began to give students from low-income families access to higher education.

Native Americans.—A number of Federal programs in the Office of Education and Bureau of Indian Affairs make it possible for Indians, Alaska Natives, and Aleuts to receive adequate education services.

Migrant children.—The Federal Government provides a variety of services for migrant children.

As a result ofthese and other Federal initiatives—increased access to postsecondary education, bilingual education, and the education of all handicapped children—schools and colleges have dramatically increased their efforts to meet the educational needs of children and youth, particularly those from poor families and minority backgrounds.

S. 991 insures the continuation and strengthening of the Federal commitment to insuring equal educational opportunities for every individual regardless of race, sex, age, ethnicity, economic disadvantage, or handicapping condition. In conjunction with this responsibility, it establishes an Office for Civil Rights whose director would report directly to the Secretary. To emphasize the importance of civil rights compliance, the director's position is upgraded from the present GS–18 level to an executive level IV.

(4) to supplement and complement the efforts of State, local, and tribal governments, the private, public, and nonpublic institutions, education research institutions, community organizations, and parents and students to improve quality of education.

S. 991 recognizes that Federal education policies should be founded on the recognition that Federal, State, and local governments, tribal governments, public and nonpublic institutions, communities, parents, and students must be participants in the Federal education process.

The bill establishes an Intergovernmental Advisory Council on Education. The Council would conduct studies and make recommenda-

tions to the Secretary and to the President and, where appropriate, to the Congress for improving the intergovernmental system for developing and carrying out educational policies.

The Council is designed to supplement and complement State and local efforts to meet the Nation's education needs.

Assigned within the Department is a level IV officer to perform intergovernmental policy and relations functions. The officer would have responsibility for assuring that Federal education policies are supportive of the various interests involved in the intergovernmental process.

(5) To encourage the increased involvement of parents, students, and the community in the decisionmaking process, including the development and improvement of education programs and services.

A higher level of citizen participation in the education decisionmaking process will serve to substantially increase public confidence in our educational system.

S. 991 recognizes the need for increased citizen involvement by providing for an effective structure to insure citizen, parent, and student participation in educational programs and to monitor such participation in programs where it is required by law.

(6) To assist in promoting improvements in the quality of American education in basic skill development, educational excellence, and lifelong learning opportunities.

The importance of education to the American people remains high. Yet, at the same time, concern over the lack of quality education is more and more evident. This is demonstrated by concern over declining student achievement, as measured by scholastic aptitude tests and decreased public confidence in the quality of education.

The bill provides a structure to assist in promoting the quality of and the relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities. It specifically provides for assistant secretaries for the major education functions to be performed by the Department—these include the areas of Indian education, education and training programs for the handicapped, child nutrition, elementary and secondary education, postsecondary education, occupational, adult and community education, and research and improvement.

(7) To broaden the approaches to meeting educational needs by increasing dialogue among schools, parents, communities, the work place, the home, and other related institutions.

There is a need for a wide diversity of approaches to education. Although the school has been traditionally the classroom, other more diverse methods of achieving educational experiences are emerging. More services provided by community and private institutions fill the gap the schools fail to address. Increased rates of high school dropouts and unemployed youth are symptomatic of the need for more diversity in education approaches for youth. There is an increasing need for parents to become more involved in their children's education. The wide range of other services offered to children within the school setting are important for achieving the total educational development of the child. Such factors as health and nutrition are important components of the school setting.

S. 991 provides a structure for improving the relationships between education and work, through such programs as vocational and career education and related training programs. It creates an Office for Occupational, Adult, and Community Education headed by an Assistant Secretary, which can serve as the link between the wide array of educational services offered the individual in the workplace and community.

The relationships among parents, schools, business, labor, and communities will be strengthened by such programs as community schools and adult education, which would be administered by this Office.

(8) To provide assistance in the area of research relating to human development, and learning systems that complement education; and to share findings with State, local, and tribal officials public and nonpublic institutions, community organizations, parents, and students.

The bill establishes an Office of Educational Research and Improvement, headed by an Assistant Secretary which would have the responsibility over a wide range of research programs administered by the Department.

With the establishment of this Office, the committee recognizes the need to focus more directly on the Federal Government's efforts to provide help and support of research, development, dissemination, demonstration, and training activities associated with a wide spectrum of educational research activities. These activities include science education, the improvement of quality teaching and the advancement of learning, and the improved development and utilization of programs and facilities associated with technology and telecommunications delivery systems.

(9) To improve the design and management of education and related programs by simplifying Federal procedures and administrative structures and by eliminating unnecessary and duplicative burdens, including unnecessary paperwork, on the recipients of Federal funds.

The bill assures that the Federal role supplements and complements the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated needs of those agencies.

The Department will be responsible for reducing Federal program and reporting requirements to assist the activities of State and local governments and public and nonpublic education agencies.

(10) To establish mechanisms where educational institutions may bring their problems to the attention of appropriate departments and make recommendations to insure the continuing vitality of such institutions. Postsecondary education has become more diverse. Between 1975 and 1978 over 22 million people were enrolled in postsecondary courses and 11.3 million students participated in higher education. Public and private institutions at all levels have been increasing. S. 991 requires the Secretary to assess the contributions of educational institutions and to study ways of insuring their continued vitality as well as their adapting roles to society's changing needs.

It is the committee's intention that in the creation of the Department, that the rights of State, local, and tribal governments, and public and nonpublic educational institutions shall be maintained and protected in

the areas of educational policies, administration of programs, and selection of curricula and program content.

The Need for a Department of Education

Having concluded 1½ years' consideration, including 10 days of hearings and testimony from more than 100 witnesses, the committee believes there is a strong need for the creation of a separate, Cabinet-level Department of Education in the Federal Government.

Generally, the committee finds that:

The low status of education in the Federal Government does not give rightful recognition to education as an important, fundamental national activity;

The Federal Government is not now adequately prepared, in either structural or administrative terms, to assist American education in dealing forthrightly with today's tremendous educational challenges and problems;

The Department of Health, Education, and Welfare has serious institutional weaknesses and deficiencies which require such a major reorganization change—the creation of an education agency separate from HEW;

The scattering and fragmentation of Federal education programs produces burdensome, duplicative, and time-consuming paperwork and regulations; and

There exists today no one high-level, visible, or accountable official in the Federal Government who is concerned with education and who has the ability to effectively coordinate the hundreds of education programs at the national level.

Education is Important to the Nation

The process of education is basic to our society and to the proper functioning of democratic government. When the people are responsible for making decisions affecting their entire society, they must be sufficiently educated to make informed decisions. Democracy depends for its very existence on a highly educated citizenry. And, because the people are involved in decisionmaking at all levels of government in the United States, education is and should be of vital concern to Federal, State, and local governments.

Education has always been an important aspect of our lives. Since the beginning of time, few nations have stressed the importance of education as much as the United States. Few nations, until more recent times, have achieved the near total rates of participation in the educational system that America has achieved. Education in the United States is universally available. Every American citizen is required by law to attend school.

Traditionally, the American people have held a confirmed belief and respect for education as the path upward. A recent Harris Poll last year showed 90 percent of the public felt "achieving quality education for children" was very important. Another survey revealed at least 75 percent of the American people still believe a "free, unlimited education" will be a major contributor to America's greatness in the future.

Education is a major function that involves more people than any other. More than 50 million persons—fully one-quarter of the population—are directly involved in education.

The American people invest more money in education than in our national defense. Total education spending in the United States today exceeds $150 billion—nearly 10 percent of the gross national product.

For State and local governments, education is the single largest expenditure. States and localities are now spending almost 40 percent of their annual budgets to pay for the cost of public education.

Despite problems and crises brought on by our ever-changing society and technology, Americans continue to seek more education to cope with an uncertain future. The facts show this trend clearly:

Half of all children 3 to 5 years of age are now enrolled in preschool programs;

Nearly 80 percent of all 17-year-olds now complete high school, compared with 50 percent in 1940; and

Enrollment in institutions of higher education has jumped from 3.8 million in 1960 to more than 11 million today.

While the responsibility for educational policies and curricula must continue to reside with States, localities, and private institutions, there is a legitimate Federal interest, and a defined role, in education. Presently, there are important programs which the Federal government does carry out in the field of education:

Guaranteeing equal access to education;

Providing assistance for educating the handicapped or disadvantaged;

Conducting comprehensive research into new ideas or trends or problems in education;

Providing valuable complementary financial assistance to States and localities so as to insure the people are receiving a quality education; and

Maintaining significant higher education loan and grant programs to open doors for all students desiring to continue their education beyond public school.

The committee believes the improvement of the Federal education effort must be a major priority. But education will never be a priority as long as it is smothered in layers of bureaucracy, fragmented across several Federal agencies, and diminished by a severe lack of attention in our National Government.

The importance of education to the success of our country will continue to grow.

THE TROUBLED STATE OF AMERICAN EDUCATION

The committee's consideration of the issue of whether to establish a separate Department of Education comes at a time when the problems in education have reached near-crisis proportions.

While Americans continue to strongly believe in education as the key to success and fulfillment, their confidence in the present capabilities of our educational institutions is down sharply. A recent Gallup Poll found 60 percent of the American people feel the quality of education in our schools is declining.

This low level of confidence stems from a variety of sources. Perhaps most disturbing was the revelation last year by the College Entrance Examination Board that overall scores on the Scholastic Aptitude Test (SAT) showed a long, significant decline from 1967 through 1977. In effect, the report said our students were leaving public schools with deficiencies in basic skills. A subsequent college board study, conducted by Willard Wirtz, noted:

> More and more high school graduates show up in college classrooms and employers' personnel offices with barely a speaking acquaintance with the English language and no writing facility at all.

Recent Federal studies have shown students are becoming increasingly disillusioned with their public schools, and as a result, absenteeism is on the rise. Educators are trying to institute a wide variety of different tactics to either lure students back to school, or penalize them for being unnecessarily absent.

A perplexing problem for school officials is reconciling the situation of declining enrollments and increasing costs. As the birth rate in the U.S. continues its steady downtrend, inflation has driven up the cost of education. Instead of being able to save money where fewer students are attending school, a local school district today is actually paying more than before.

The American taxpayer is rebelling against rising property taxes, which are used predominantly in the United States to finance public education. States and localities spend approximately 40 percent of their budgets for education.

While a Department of Education in and of itself could not solve education's tremendous problems, its primary purpose will be to supplement and complement States, localities and private institutions. The Nation's education officials will be hindered in their performance by an ill-equipped, fragmented, and confusing Federal education structure. The Federal Government should assist States and localities in providing a good education for all.

The Committee believes the troubled state of education in our country today would be better aided by the creation of a Department of Education.

HEW'S INSTITUTIONAL DEFECTS

The Department of Health, Education, and Welfare is the largest Cabinet department in the Federal Government. Its budget will rise to $180 billion this year—more than one-third of the entire Federal budget.

HEW's more than 325 programs inevitably touch nearly every living American. Social security, medicare, medicaid, aid to families with dependent children, and a host of other comprehensive programs serve most of the Nation's 220 million citizens. They are all vital to the daily survival of many people. HEW's mandate to safeguard the health and welfare of the American people is an awesome responsibility.

But HEW also has important responsibilities in the field of education. In its examination of the history of HEW, the Committee has found education is often the victim of neglect and of poor interdepartmental competition with massive health and welfare programs.

HEW's size alone causes serious institutional weaknesses which cannot be remedied through any amount of in-house reorganization.

In the last 20 years, the Federal Government's role in health and welfare has expanded 10 times faster than that of education. Out of HEW's $180 billion budget, at least $168 billion will be expended for health and welfare. The remaining $12 billion makes up the budget of the Education Division. Thus, education issues are dominated by health and welfare concerns.

The committee believes, however, the creation of a Department of Education will not result in any dramatic or unusual increases in education spending. On the contrary, the Congress will be better able to clearly evaluate and assess potential education budget allotments on their own merits.

Putting health, education, and welfare together in one Cabinet department in order to develop a comprehensive human services approach in government has not worked in the past at HEW. The facts indicate it will not work in the future. No other country in the world places these three components together in one governmental agency.

In testimony before the committee, Education Division employees said they rarely conduct discussions or even have contact with the other 150,000 employees who work for HEW. Most of the six former U.S. Commissioners of Education who testified before the committee in October 1977 agreed they were involved more in coordination with those education programs outside HEW, such as the school lunch programs in USDA or the CETA programs in the Labor Department. Rufus Miles, Jr., Princeton University professor and former director of HEW administration for more than 12 years, told the committee:

> In all my years at HEW, I never saw any significant coordination of programs and functions between the Office of Education and the other components of HEW. This coordination * * * is simply a figment of the imagination.

Former HEW Secretaries have all been invariably, men of high caliber, great intellect, and boundless energy. But HEW's responsibilities in health and welfare are so extensive that the HEW Secretary simply does not have sufficient time to devote to education. President Carter recently surprised the nation by observing the Cabinet official who discussed education with him most was the Attorney General.

The committee thus finds that the overall mission of HEW has changed so substantially since its formation 25 years ago that education is almost "out of place" in that Department. Education is operating separately and distinctly from health and welfare, and benefits little from nonexistent "linkages" to them.

The committee believes by the creation of a separate Department of Education, the administration of, and attention given to, health, education and welfare will improve significantly. Our Nation's health and welfare programs are also important and should not be neglected. By establishing an Education Department, we would be lifting another burden off the back of the HEW Secretary, thereby leaving him or her more time to devote to important health and welfare services.

The creation of a Department of Education is a sound administrative and managerial move. It is important to point out the American

Society for Public Administration, for the first time in its history, has endorsed the creation of a Cabinet department—the Department of Education:

> The addition of another Cabinet department would not unduly stretch the President's span of major organizational control. On the other hand, coordination of educational programs to minimize unnecessary administrative burdens and expense for educational institutions and to rationalize inconsistent educational policies would be facilitated if a Cabinet official were given this as a major assignment.

But, the Secretary of Health, Education, and Welfare is not capable of achieving this coordination, because he or she is institutionally restrained in the difficult assignment of coping with health and welfare matters, as well.

THE SCATTERED, FRAGMENTED FEDERAL EDUCATION EFFORT

This year, the Federal Government will spend more than $25 billion on education in one form or another. But this considerable sum comes from over 300 different programs which are scattered among nearly 40 different Federal agencies.

The fragmentation of Federal education programs means there are many voices in Washington speaking for education. There is no one official out front to take the lead, to have the authority to achieve meaningful coordination of our education effort.

The committee believes there must be effective coordination of this myriad of education programs. There should be one, high-level official who is assigned the task of overseeing the Federal education effort to prevent duplication and inefficiency. Creation of a Department of Education, with a Cabinet Secretary as its head, will go a long way toward achieving this badly needed coordination.

Fragmentation's most harmful attribute is the inordinate amount of burdensome, time-consuming, and duplicate paperwork and regulations. For example, most schools qualify for aid from both the U.S. Office of Education and the U.S. Department of Agriculture. The child nutrition and school lunch programs in USDA have data and accounting requirements, funding cycles, compliance procedures, and eligibility standards which all differ from those of the programs in OE. The result of this sort of fragmentation, according to the Council of Chief State School Officers, is that States and localities are finding themselves spending nearly 40 percent of their time filling out reports for the Federal Government—which gives out only 8 percent of all education costs. One State superintendent, Dr. Joseph Cronin of Illinois, told the committee his office of education employs 20 individuals—at an average salary of $15,000 annually—just to assist in the preparation and presentation of Federal reports.

With 40 different Federal agencies involved substantially in education, the situation today is one where each agency is promulgating its own rules, its own regulations, and its own paperwork requirements. There is inevitably some overlap and duplication.

S. 991, as reported by the committee, will achieve a significant amount of consolidation of widely scattered Federal education pro-

grams. Altogether, more than 170 programs will be included in the new Department. The committee strongly believes such a broadly based Department of Education will greatly enhance chances for beneficial reductions in paperwork and regulations, and in overhead costs for States and localities.

While the Department of Education will represent an important step towards consolidation of Federal education services, another 100 education programs will continue to exist in other agencies, mainly because their missions are integrally related to the functions of the agencies in which they reside. Yet coordination between these programs and those of the Education Department will continue to be important.

The Federal Interagency Committee on Education, (FICE), could serve as a useful tool for the Secretary of Education in his or her coordination efforts. To date, the successes of FICE have been few. The Committee was originally authorized by an executive order issued by President Johnson in 1964. Clearly, the problem with FICE has been its low-level status. Federal departments and agencies have often designated representatives to the FICE who rank well below policy level.

But under the new Department of Education, FICE would be headed by the Secretary, and other Federal agencies would be specifically required to appoint high-ranking officials to the Committee. This elevation will insure more effective coordination by placing it at higher levels where the decisions are made.

By consolidating education programs, reducing paperwork and redtape, and improving coordination between agencies, the Department of Education will make great inroads in remedying a confusing and fragmented Federal education effort.

THE IMPORTANCE OF CABINET STATUS FOR EDUCATION

Improved management of Federal education programs is needed within the Federal Government now more than ever. HEW's institutional deficiencies have thwarted it for too long. The present crisis-like problems in education demand it. And fragmented Federal education programs have gotten out of hand.

Congress and the American people need a highly visible, responsible, high-level Federal official who can be held accountable for the successes or failures of educational programs and policies on the Federal level.

Education needs a strong advocate in Washington to speak for its needs and to assist in solving its problems.

But effective management does not mean "more control." The responsibility for education policy and curriculum will remain at State, local and private levels. Instead, better management by a Secretary of Education means improved accountability, coordination, and advocacy. Each of these is important if the Federal Government is to make a helpful contribution in assisting American education. The committee believes a Department of Education can provide valuable and precious assistant to States, localities, and private institutions without infringing on their constitutional right to determine their individual educational needs and policies.

As the Federal education effort continues to expand, and the pressures on education continue to mount, the importance of Cabinet status for education becomes clearer. Presidential involvement increases. For too long, American Presidents have had difficulty becoming involved in assisting education programs at the Federal level. Most of them have had little contact with their education officials.

The position of U.S. Commissioner of Education is such a frustrating job that sometimes the most capable and qualified individuals are not attracted to it. In the last 12 years, testimony presented by Dr. Samuel Halperin cited the fact that the commissionership has changed hands 13 different times. It is a revolving door that turns rapidly. The Commissioner has little advocacy in the system. He is afforded almost no opportunity for policy input. His decisions and recommendations on education budgets are usually overruled. The Commissioner of Education is buried in the HEW bureaucracy. He rarely sees the HEW Secretary, much less any other high-level official.

In 1972, Congress attempted to elevate the status of education in HEW by establishing the post of Assistant Secretary for Education in the Department. Although Congress made the Assistant Secretary the head of education, little in the way of responsibility was assigned the new official. Most programs remained under the purview of the Commissioner. Today, education responsibilities with HEW are seriously fragmented between a Commissioner and an Assistant Secretary.

Who heads the HEW Education Division? There is no clear answer. In testimony before the committee, Barbara Kemp, president of the union representing the Education Division employees, said the confusion has reached the point where employees, if they want to resign, now address their letters, "To Whom It May Concern."

Through the creation of the Department of Education, the problem of fragmented leadership within HEW would be corrected immediately. For the first time in nearly a decade, education programs would be administered from a clearly ordered, well-organized structure.

The Secretary of Education would clearly be the Federal official for education. Lines of authority and of responsibility within the Federal education structure would be defined. People there would know to whom they report. Administratively, the change would be a significant improvement over the existing situation.

Cabinet officers carry weight in Washington. They can bring problems to light easily. They can bring to the attention of Congress and of the President education matters which are ever changing.

Cabinet status enables the Secretary to better coordinate Federal education programs.

Cabinet status is a step toward increasing administrative efficiency—both for education and health and welfare.

And, giving education Cabinet status will attract more qualified persons to serve in education programs where before others have been turned away by the frustrations of the jobs.

Education deserves to become the 13th member of the President's Cabinet.

History of the Legislation

Efforts to create a Cabinet-level Department of Education in the Federal Government have been ongoing, often sporadically, for the past 125 years.

In March 1867, Congress created a non-Cabinet Department of Education, primarily to collect statistics and other relevant data on the condition of American education. Unfortunately, this non-Cabinet agency never really got off the ground. Its budget was less than $15,000. It had less than 10 clerks and existed for only slightly more than 1 year. The Department was subsequently given bureau status and placed within the Department of the Interior for the next 70 years.

In 1939, the U.S. Office of Education was transferred from the Interior Department to the new Federal Security Agency created by President Franklin Roosevelt.

The Office of Education has remained in the Department of Health, Education, and Welfare since its creation in 1953 under the Eisenhower administration.

From 1908 through 1951, more than 50 pieces of legislation to establish a separate, Cabinet-level Department of Education were introduced in Congress. In that time period, nearly 20 days of hearings were held on several bills, and at least six were actually reported to either the House or the Senate floor for final consideration. No action, however, was ever taken beyond the committee stage.

Yet, education advocates gave much effort and consideration in the first half of the 20th century to the creation of a separate Education Department. As far back as February 1910, then U.S. Commissioner of Education Elmor Brown, in testimony before a congressional committee on the issue, predicted:

> A time will be reached when the erection of such a department of the Government as this measure contemplates will be necessary to good administration.

In a December 1923 message to Congress, President Calvin Coolidge gave his support to the concept of the separate Department:

> Having in mind that education is peculiarly a local problem, and that it should always be pursued with the largest freedom of choice by students and parents, nevertheless, the Federal Government might well give the benefit of its counsel and encouragement more freely in this direction. I do consider it a fundamental requirement of national activity which is worthy of a separate department and a place in the Cabinet.

And in 1931, the National Advisory Committee on Education recommended the creation of a Cabinet Department of Education:

> No bureau chief or head of a detached or independent establishment can give the equal access to the Chief Executive and that equality of approach to the heads of all departments concerned essential to the effective total operation of education of education in government. The presence in the government of an officer of cabinet rank would insure that effective contribution of education which is essential to the future political and social welfare of the nation.

The Federal effort in education continued to grow dramatically after the creation of HEW in 1953. The budget for the Office of Education jumped from approximately $400 million then, to $4 billion during President Johnson's Great Society initiatives, to more than $10 billion today.

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And as the Federal effort increased, so did calls in Congress for the creation of an Education Department separate from HEW. From 1953 to the present, more than 80 pieces of legislation were introduced in Congress and a large number of authoritative studies were conducted.

Under the Johnson administration, three separate task forces seriously studied the concept of a Cabinet Department of Education. The 1964 Task Force on Government Reorganization favored an Education Department:

> Because the schools have been afraid of Federal domination, the Government has never had a comprehensive policy for the advancement of education and research. But it is unrealistic to think we can protect the freedom of education by pretending to ignore it.

Also in 1964, a study team headed by then HEW Secretary John Gardner was split between creating an independent Office of Education at the Presidential level and creating a Cabinet department. Still another group, the Heineman task force, concluded in 1967 that a Department of Education was not necessary at that time.

Much attention was focused on the introduction of S. 100 (the Department of Education Act) in January 1965 by Senator Ribicoff. A former Secretary of Health, Education, and Welfare, Senator Ribicoff said a Department of Education was necessary because education was not receiving the attention it deserved in the burgeoning and increasingly unmanageable HEW Department. The Ribicoff bill has been reintroduced in every Congress since then.

The 1970's brought a renewed interest in the establishment of a Cabinet-level Department of Education. In the 1972 Presidential campaign, the Democratic candidate, Senator George McGovern, announced his support for giving education Cabinet status. In 1976, the Ford Foundation and the American Council on Education sponsored a landmark study on the issue, authored by Rufus Miles, Jr., formerly HEW director of administration throughout the 1960's. The Miles study gave strong backing to the creation of a Department of Education.

President Carter, throughout his 1976 campaign for the Presidency, pledged that in his proposed reorganization of the Federal Government, he would create a Department of Education.

In March 1977, Senator Ribicoff again introduced his legislation. This time, however, more than half of the members of the U.S. Senate joined him in cosponsoring the bill, S. 991. In the U.S. House of Representatives, nearly 30 different pieces of legislation to create a separate Department were also introduced in the 95th Congress.

Upon taking office, President Carter set up the President's reorganization project to study the Federal Government structure and recommend reorganization proposals. The project's education study team began work in April 1977. In late November 1977, they presented to the President for his review three options: (1) The creation of a Department of Education; (2) the creation of a Department of Education and Human Development; and (3) an uplifting of the status of the Education Division within HEW. The President decided in favor

of the establishment of an Education Department, and announced his decision in his state of the Union address in January 1978.

Meanwhile, the Committee on Governmental Affairs opened the first congressional hearings on Department of Education legislation in nearly 25 years. On October 12 and 13, 1977, prominent academic authorities, major national education organizations, and six former U.S. Commissioners of Education testified on the need for the Department.

The committee devoted 10 days of hearings to S. 991 and heard testimony from more than 100 witnesses. Committee markups on S. 991 were held July 11, 14, and 18, 1978. S. 991, the Department of Education Organization Act, was unanimously ordered reported by the committee for full Senate consideration.

Summary of the Legislation

PROGRAMS TRANSFERRED

Program	Agency	Fiscal year 1978	
		Staff	Budget
Education Division	Health, Education and Welfare	3,600	$10.5 billion.
Inspector General	do	117	$3.5 million.
Office for Civil Rights	do	1,102	$33.3 million.
Special Institutions	do	1	$44.8 million.
Telecommunications Demonstration	do	12	$31 million (fiscal year 1979).
Health Professions Student Loans	do	21	$20 million.
Nursing Loans and Scholarship Programs	do	24	$31.5 million.
Rehabilitative Services Administration	do	342	$976.3 million.
Office for Handicapped Individuals	do	14	$689.6 thousand.
Advisory Council on Educational Statistics	do	1.5	$29 thousand.
Institute of Museum Services	do	15	$28 million.
Child Nutrition	Agriculture	600	$3.5 billion.
USDA Graduate School	do		
BIA Educational Programs	Interior	5,892	$291.9 million.
Overseas Dependants' Schools	Defense	10,000	$350 million.
Law Enforcement Education Loans	Justice	9	$30 million.
Selected Science Education Programs	National Science Foundation	40	$56 million.
College Housing Construction Loans	Housing and Urban Development	3	$111 million (fiscal year 1979).

TITLE I

Title I states the purposes for creating the Department of Education and the congressional findings.

Some of the congressional findings are: Education is fundamental to individual development and national growth; there is a need to insure equal educational opportunity; the primary responsibility of education is that of State, local, and tribal governments, public and nonpublic institutions, families, and communities; the proliferation of Federal programs has created management problems at the Feedral, State, local, and institutional levels; there is a need to improve the quality of education; and the existing structure of the executive branch does not recognize adequately the importance of education.

Some of the purposes of the Department are: To insure education receives the appropriate emphasis at the Federal levels; to provide leadership to Federal efforts to improve quality and access to education; to continue and strengthen the Federal commitment to equal educational opportunity; to supplement and complement the efforts

of State, local, and tribal governments, the private sector, public, and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curriculums, decide administrative questions, and choose program content with respect to their educational programs; to encourage parental, student, and community involvement; to promote the quality and relevance of education to individual needs, including basic skills and lifelong learning; to broaden the approaches to meeting educational needs by strengthening relationships among schools, parents, students, communities, the workplace, and other institutions; to improve and simplify the design and management of education programs and eliminating unnecessary constraints, including unnecessary paperwork, on the recipients of Federal funds; and to assess the potential contribution of higher education institutions to improving national education goals. The bill further states it is the intention of Congress to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curriculums and program content.

TITLE II

Title II establishes the Department. It provides for the offices and the officers which administer them. It provides for a Secretary and an Under Secretary. It also provides for the following offices which are headed and administered by Assistant Secretaries carrying the same titles: Office of Indian Education; Office of Child Nutrition; Office of Elementary and Secondary Education; Office of Post Secondary Education; Office of Occupational, Adult, and Community Education; Office of Educational Research and Improvement; and Office of Special Education and Rehabilitative Services. There is also established in this section an Office for Civil Rights, to be administered by a Director (appointed by the President with the advice and consent of the Senate), an Office of Education for Overseas Dependent Children, to be administered by an Administrator, and three additional officers (two executive level IV Assistant Secretary positions and one level V position) to perform staff functions. These functions would include: Intergovernmental policies and relations, public information; planning, evaluation, and policy development; congressional relations; administration and management; and public, parent, and student involvement.

Each Assistant Secretary and the Director of the Office for Civil Rights would be compensated at the rate provided for executive level IV. The Administrator of the Office of Education for Overseas Dependent Children and the additional officer who is not an Assistant Secretary would be compensated at the rate provided for executive level V.

Of the staff functions to be performed by the three additional officers, intergovernmental policies and relations would be performed by one of the level IV Assistant Secretaries and the planning, evaluation, and policy functions would be performed by the other level IV position, in addition to any other duties the Secretary may assign.

This title also provides for an Inspector General, to have the same responsibilities and independence as HEW's Inspector General, and a General Counsel. Each of these officers would be executive level IV's.

The Director of the Office for Civil Rights would be required to submit an annual report to the President, the Secretary, and the Congress on the enforcement and compliance of education-related civil rights laws.

With regard to the Office of Indian Education, the eligibility requirements would not be altered or eliminated for participation in programs previously administered by the Secretary of the Interior or the Department of the Interior. The trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts would not be altered in any way. The actual operation of the schools would be phased in over a 3-year period.

This title also provides for the establishment of an Intergovernmental Advisory Council. The Intergovernmental Advisory Council on Education would provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; and assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation, by State, local, and tribal governments and public and nonpublic educational institutions.

The Council would be composed of 22 members to be appointed by the President. In making appointments, the President would consult with such groups as the National Governor's Conference, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors.

Lastly, this title elevates the existing Federal Interagency Committee on Education by giving it statutory authority and providing that the Secretary will be the chair. The committee would be a mechanism to insure the consistent and coordinated administration of policies and practices by Federal agencies in the conduct of education programs.

TITLE III

This title transfers agencies and functions. The largest amount of programs come from the transfer of the entire Education Division of HEW. There are, however, other transfers from HEW itself which are outside the Education Division. These include the Institute of Museum Services, any advisory committees relating principally to education, responsibilities of the Secretary of HEW for Education programs in the Education Division, the Inspector General functions relating to programs in the new Department, the Office for Civil Rights education functions, budgetary oversight of various special institutions, telecommunications demonstration projects, and health professions and student loans (medical doctors and nurses).

This section also transfers components from other departments and agencies. These include:

From the Department of Agriculture.—The child nutrition and nutrition education programs (other than women, infants, and

children feeding programs) will be transferred. These are mainly the school feeding programs—the largest of which is the national school lunch program. This transfer does not include the surplus agricultural commodity program, which will remain in the Department of Agriculture.

From the Department of the Interior.—The programs relating to the education of Indians, Alaskan Natives, and Aleuts will be transferred. These relate to the operation of the schools, the Johnson-O'Malley education assistance, and the continuing education programs.

From the Department of Defense.—The operation and administration of the overseas dependent schools will be transferred. The schools would be phased in over a 3-year period.

From the National Science Foundation.—Programs relating to science education will be transferred. Programs which the Director of the Office of Management and Budget determines relate to fellowships and traineeships integral to the support of scientific research and development, ethical, value and science policy issues or communicating science values to nonscientists will not be transferred.

From the Department of Justice.—Student loan and grant programs known as the law enforcement and education program and the law enforcement intern program will be transferred.

From the Department of Housing and Urban Development.—The college Housing loan program will be transferred.

TITLE IV

This title contains the personnel provisions and general administrative authorities for the Secretary. The bill transfers existing positions in the General Schedule pool to the Department and authorizes 71 new supergrade positions for the Department. Twenty-one of these positions would replace the supergrades already created by statute in the education division. The bill also authorizes the Secretary to appoint professional and technical employees in a number not to exceed one-third of the total number of employees of the Office and 15 temporary supergrades for transittional tasks for a period limited to 3 years after the effective date of this act. Section 412 authorizes the Secretary to delegate functions to employees in the Department where the Act does not provide otherwise. Section 413 establishes the procedure and safeguards of the Secretary's reorganization power within the Department. The other provisions provide standard administrative powers such as power to contract, use facilities, make a report, design a seal, establish a working capital fund, et cetera. The Secretary would also be required to make an annual report on the assessment of educational progress and improved coordination of functions within the Department.

TITLE V

This title is concerned with transitional, savings, and conforming provisions. Some of the significant provisions are: transfer of personnel and funds; termination by operation of law of any existing

office or agency all of whose functions are transferred; authorization of the Director of the Office of Management and Budget to make determinations of incidental transfers of personnel and funds relating to transferred programs; the continuation of existing orders, proceedings, et cetera, made before the transfers by parent agencies until modified by the Secretary or the President; conforming amendments; and the redesignation of HEW as the Department of Health and Welfare.

TITLE VI

This title is concerned with interim dates and appointments. It provides for the effective date of the Department as 180 days after the Secretary takes the oath of office and allows appointments of the principal officers and promulgation of regualtions before the effective date.

Summary of Hearings

The committee conducted 10 days of hearings and heard testimony from more than 100 witnesses. These hearings spanned many areas of interest regarding the creation of the Department of Education. Out of the 10 days of hearings, nearly 4 were devoted to the general concept of the Department, 2 were concerned with the transfer of child nutrition programs, another was spent considering the transfer of the Department of Defense Dependents Schools and the science education programs from the National Science Foundation, 1 day each was devoted to the proposed transfer of Head Start and Indian education, and the administration testified on two occasions.

October 12.—The committee opened the first congressional hearings in 25 years on Department of Education legislation. Three panels of witnesses testified. The first, composed of Senators Pell, Domenici, and Bellmon, expressed their support for the creation of the Department and their appreciation to the committee for commencing hearings on the issue.

The second panel was composed of three members of the citizen's committee for a separate Department of Education. James Farmer, Dr. Carl Marburger, and Winfield Kelly, Jr. underscored the long-overdue need for a Cabinet-level Department of Education. They said a Department of Education could give more attention to education in the Federal Government, and involve parents and citizens more in the educational process.

The third panel consisted of academic authorities in education administration. These authorities, Rufus Miles, Jr., Dr. Stephen Bailey, and Dr. Samuel Halperin, emphasized the administrative gains would be made in Federal education programs through the creation of an education department. They testified that education is smothered by the concerns of health and welfare in HEW and competes poorly for budget and personnel.

October 13.—In the first panel, the committee heard from the so-called "big six" national education organizations. Representatives from the National Education Association, Council of Chief State School Officers, National Association of State Boards of Education, National Congress of Parents and Teachers, and the American Association of School Administrators supported the creation of the De-

partment, and emphasized the need for more direction, leadership, and coordination at the Federal level.

The second panel consisted of six former U.S. Commissioners of Education, including Dr. Terrel Bell, Dr. Sidney Marland, Harold Howe II, Francis Keppel, Dr. Sterling McMurrin, and Dr. Samuel Brownell. The former commissioners related to the committee their administrative and policy experiences, observations, and frustrations with the U.S. Office of Education. Messrs. Howe and Brownell urged further study of the concept by the committee before making decisions. Messrs. Bell, Marland, McMurrin and Marland gave their support to the bill, and recommended the committee balance educational interests in the new Department's structure.

March 20.—The first panel testified on the general concept of the Department of Education. It was composed of representatives of two student groups and the president of the American Federation of Government Employees, Local 2607, HEW Education Division. The student groups supported the new Department, and advocated the creation of channels for student input. The union president, Barbara Kemp, illustrated the present lack of leadership and coordination for education matters in the Federal Government. Ms. Kemp told the committee there was low morale in the Office of Education.

The second panel included various experts in the area of school feeding programs, including representatives of the American School Food Service Association. The ASESA's testimony reflected a "fear of the unknown." It listed conditions to be fulfilled before it would support the transfer, including the creation of an assistant secretary for child nutrition, a commitment to expansion and universal school feeding, retention of nutrition education and training of school food service personnel, and maintenance of the provision of surplus and nonsurplus agricultural commodities to the schools. Support for the transfer was expressed by Dorothy Van Egmond, Fairfax County Public Schools food services director, who said USDA regulations are not sympathetic to the working relationships cafeteria managers have with school administrators.

March 21.—Three panels discussed the general concept of the creation of separate Department of Education. The first was composed of witnesses representing concerns of State and local governments. Illinois State Superintendent of Education Joseph Cronin, in supporting the legislation, emphasized the inability of States to deal with Federal education programs and offices at fourth and fifth levels of bureaucracy. The Education Commission of the States cautioned that great care must be taken in creating the Department to insure it will be responsive to State and local needs. Although the panel expressed some concern for the traditional role of the States in education, Pennsylvania State Representative Helen Wise said the creation of the new Department would present an opportunity to improve Federal, State and local relations in education.

The second panel consisted of two organizations opposing the creation of the Department—the American Federation of Teachers, and the U.S. Catholic Conference. Albert Shanker, president of the A.F.T., proposed a reorganization within HEW instead of the separate Department. Shanker argued linkages should be developed between education, and health and welfare. Msgr. Wilfred Paradis, secretary of education for the Catholic Conference, said the new Department might

destroy "pluralism" in American education, and might not be sensitive to the need of private education.

Four higher education groups made up the third panel: American Association of Community and Junior Colleges, American Council on Education, State Higher Education Executive Officers, and American Association of University Professors. Each group, with the exception of ACE, supported the new Department, and urged that a high-level official in the new Department be established to address the needs of higher education. The ACE, while not taking a formal position on the legislation, also recommended a high-level officer and suggested changes in the bill to insure effective coordination of Federal education programs.

April 14.—James McIntyre, Director of the Office of Management and Budget, made the first of two appearances before the Committee to testify on S. 991.

Mr. McIntyre, on behalf of the administration, favored the creation of a Cabinet-level Department of Education. He endorsed S. 991 and its proposed transfers, except for the following recommendations: the option of transferring the National Endowments for the Arts and for the Humanities and the training and youth services programs should be reserved for future consideration. He also suggested that the nursing loan and scholarship program, the health profession student loan program, the law enforcement education program and the internship programs, and the Indian student higher education assistance program should be transferred to the new Department. The administration also recommended the establishment of an intergovernmental advisory council on education. As a general recommendation, the administration believed that programs should be organized around groups served by the Department.

April 18.—The first panel discussed the transfer of the Department of Defense Dependents Schools to the Education Department. I. M. Greenberg, Deputy Assistant Secretary of Defense for Program Management, expressed the DOD's support for the transfer of the school system and said any logistical problems could be worked out with close cooperation between DOD and the new Department. Carl Moore, Overseas Education Association executive director, said it was unreasonable to expect the DOD to have the expertise in running efficiently the schools, and the system should be in a Department whose primary goal is education. Two past presidents of the European Congress of Parents, Teachers and Students expressed concern that the logistical support and military community responsibility for the overseas dependents schools would suffer if the transfer were made.

The second panel directed its attention to the transfer of science education programs from the National Science Foundation to the new Department. Three science groups were concerned that the ties science education has with science in general, and particularly with scientists and research, will be lost if the transfer is made. A representative of the President's science advisor supported the transfer.

April 27.—Originally, S. 991 transferred the Head Start program from the Office of Human Development Services in HEW to the new Department of Education. This provision, however, was deleted in the committee's markup of the legislation. The committee nevertheless devoted one day of hearings to this proposed transfer. Senator Brooke

and Representative Chisholm testified that the program operates very successfully now in HEW and should not be tampered with. The fear that educators would not maintain the unique, comprehensive, and parent-involvement approach of Head Start was reflected in testimony by the Children's Defense Fund, National Head Start Association, and the National Congress of Hispanic American Citizens. Support for the transfer was expressed by a representative of the California Department of Education, a Project Head Start coordinator, and a professor of early child development. In addition, James Parham, deputy assistant secretary for human development services, HEW, presented the administration's position of supporting the transfer of Head Start.

May 8.—The committee held a second day of hearings on the issue of the transfer of child nutrition programs to the Department of Education. There were four panels of witnesses who testified.

Carol Foreman, assistant secretary for food and consumer services at USDA, favored the transfer on behalf of USDA and the administration. Ms. Foreman said administering child nutrition programs from the Department of Education would lead to more complete integration of nutrition in the schools. She also said the commodity programs would continue to operate successfully, and would not be affected by the transfer.

Support for the transfer also came from a panel of witnesses comprised of a representative of the Council of Chief State School Officers, the Society for Nutrition Education, and the administrator of the New York City school food services. They said schools would benefit from parallel administration of the child nutrition programs by Federal, State and local education agencies. They also emphasized the opportunity for increased coordination between the classroom and the cafeteria if the transfer were made.

Opposition to the transfer was voiced by a panel of nutrition groups and a panel of commodity groups. The former panel, consisting of the Food Research Action Center, Community Nutrition Institute, Children's Foundation, and the ASFSA, was concerned that educators would not expand the delivery of child feeding programs, and that within the new Department other educational programs would take precedence. These groups also argued that while in the past USDA might not traditionally have been receptive to the programs, recent progress has been made and the transfer is untimely.

The commodity panel, composed of representatives of the National Cattlemen's Association, National Milk Producers Federation, Poultry and Egg Institute, and the American Farm Burau feared the Department of Education would cash out the commodity program. Further, the members of this panel underscored the experience and expertise USDA has in dealing with child nutrition.

May 16.—The committee held a full day of hearings on the transfer of Indian education programs from the Bureau of Indian Affairs to the new Department. A wide divergence of opinion developed among the members of the Indian community present on this issue.

The Navajo Division of Education, the First American Caucus of the National Education Association, the All Indian Pueblo Council, the Mississippi Band of Choctaw Indians, and two Federal officials supported the transfer if certain conditions and safeguards were met, including maintenance of the trust responsibility, preservation of

existing eligibility and Indian preference requirements, and continuation of self-determination, among others.

Opposing the transfer were the National Tribal Chairmen's Association, the National Congress of American Indians, the National Indian Education Association, American Indian Higher Education Consortium, Coalition of Indian-Controlled School Boards, Northern Cheyenne Tribe, Minnesota Chippewas, and Affiliated Tribes of Northwest Indians. Their concerns centered on the fear the trust responsibility of the Federal Government would be eroded. They also argued there was little consultation with Indian tribes on the transfer, and the proposed move would be the beginning of the dismantling of the Bureau of Indian Affairs.

The administration's support for the transfer of BIA education functions, along with those of HEW, was presented by James Joseph, Under Secretary of the Interior, and Dr. Gerald Gipp, Deputy Commissioner of Education for Indian Education. The administration pledged its continued commitment to the Federal Government's trust responsibility, and proposed the transfer of the BIA schools be "phased-in" to the new Department over a 3-year period to minimize disruption.

May 17.—Returning to testify on the Committee's tenth and final day of hearings on S. 991 was James McIntyre, Director of the Office of Management and Budget. He was accompanied by Hale Champion, Under Secretary of HEW.

Under Secretary Champion expressed the Department of Health, Education and Welfare's commitment to the creation of the Department of Education. Mr. Champion said education has the size, scope, and character to deserve its own place in the Cabinet, and that better coordination of other educational functions would result.

Mr. McIntyre's testimony outlined the organizational structure of the new Department of Education as envisioned by the administration. His recommendations included: the establishment of a statutorily based intergovernmental advisory council on education, the elevation of the Federal Interagency Committee on Education to the secretariat level, the creation of 14 executive level positions reporting directly to the Secretary, (including an executive level IV position for the Office of Civil Rights), organizing the Office of Inspector General in accordance with the provisions of the Inspector General bill pending before the committee, placing research and improvement in a high-level position, and the establishment of a mechanism to encourage public and parental involvement. The administration further advocated that at least two assistant secretary-level positions should be allocated according to functional lines for programs currently in HEW's Education Division, and the programs that are transferred to the new Department must be moved intact and the leadership of them must come from the pool of 14 executive-level positions.

Department of Education Hearings: Witness List

OCTOBER 12, 1977

Panel I

Hon. Claiborne Pell, U.S. Senator, Rhode Island.
Hon. Pete V. Domenici, U.S. Senator, New Mexico.
Hon. Henry Bellmon, U.S. Senator, Oklahoma.

Panel II

James Farmer, Executive Director, Coalition of American Public Employees.

Dr. Carl Marburger, Senior Associate, National Committee for Citizens in Education.

Winfield M. Kelly, Jr., County Executive, Prince Georges County, Md.

Panel III

Rufus E. Miles, Jr., Woodrow Wilson School of Public Affairs, Princeton University.

Dr. Stephen K. Bailey, Harvard Graduate School of Education.

Dr. Samuel Halperin, Former HEW Deputy Assistant Secretary for Legislation.

OCTOBER 13, 1978

Panel I

John Ryor, president, National Education Association.

Dr. Wayne Teague, Chief State School Officers, Alabama State Superintendent of Education; accompanied by Joanne Goldsmith, Member, Maryland State Board of Education, National Association of State Boards of Education.

Grace C. Baisinger, president, National Congress of Parents and Teachers (PTA).

Will D. Davis, president, National School Boards Association.

Frank Dick, immediate past president, American Association of School Administrators, Superintendent of Schools, Toledo, Ohio.

Panel II

Dr. Terrel H. Bell, Commissioner of Higher Education, State of Utah.

Dr. Sidney P. Marland, president, College Entrance Examination Board, University of Utah.

Harold Howe, II, vice president for education, The Ford Foundation.

Francis Keppel, director, Program on Education, Aspen Institute for Humanistic Studies.

Dr. Sterling M. McMurrin, dean, Graduate School, University of Utah.

Dr. Samuel M. Brownell, professor emeritus, Yale University.

MARCH 20, 1978

Panel I

Lawrence Zaglaniczny, executive director, Coalition of Independent College and University Students.

Joel Packer, legislative director, National Student Association/National Student Lobby.

Barbara H. Kemp, president, A.F.G.E. Local 2607 (HEW Education Division).

Panel II

Faith Gravenmier, chairwoman, American School Food Service Association Legislative Committee.

Dorothy Van Egmond, director, food services, Fairfax County Public Schools.

Dorothy L. Finch, supervisor, food services, Granview, Washington School District.

Helen B. McGee, nutrition coordinator, Oklahoma State Department of Education.

Gary Hotchkin, executive director, American School Food Services Association.

MARCH 21, 1978

Panel I

Lubbie Harper, Jr., executive assistant, New Haven Public Schools.

Dr. Joseph M. Cronin, Illinois State Superintendent of Education.

Hon. Helen Wise, member, Pennsylvania State House of Representatives.

Dr. Warren G. Hill, executive director, Education Commission of the States.

Panel II

Albert Shanker, president, American Federation of Teachers.

Msgr. Wilfrid Paradis, secretary, Department of Education, U.S. Catholic Conference.

Panel III

Charles B. Saunders, Jr., director, government relations, American Council on Education.

Dr. Helena B. Howe, chairwoman, board of directors, American Association of Community and Junior Colleges.

Dr. James A. Norton, chancellor, Ohio Board of Regents, Representing State Higher Education Executive Officers.

Dr. Donald L. Robinson, chairman, Task Force on a Separate Department of Education, American Association of University Professors.

APRIL 14, 1978

James T. McIntyre, Jr., director, Office of Management and Budget, accompanied by Patricia Gwaltney, Deputy Associate Director for Human Resources Organizational Studies.

APRIL 18, 1978

Hon. Cecil Heftel, U.S. Representative from Hawaii.

I. M. Greenberg, Deputy Assistant Secretary for Program Management, Department of Defense; accompanied by Dr. Anthony Cardinale, Director DoD Dependent Schools.

Carl D. Moore, Executive Director and General Counsel Overseas Education Association.

Col. Robert F. Comeau, Staff Judge Advocate, U.S. Army, Fort Polk, La., Past President, European PTSA (1973–75).

Lt. Col. Michael J. Scotti, Jr., M.D., U.S. Army Fort Gordon, Ga., Past President, European PTSA (1975–76).

Panel II

Phil Smith, Deputy Associate Director, Office of Science and Technology Policy.

Dr. Arthur H. Livermore, head, Office of Science Education, American Association for the Advancement of Science.

Dr. J. Myron Atkin, dean, College of Education, University of Illinois.

Robert L. Silber, executive director, National Science Teacher's Association.

Melvin Thompson, Executive Director Committee on Minorities and Engineering National Research Council, National Academy of Sciences.

APRIL 27, 1978

Hon. Edward Brooke, U.S. Senator, Massachusetts.

Hon. Shirley Chisholm, U.S. Representative, 12th District, New York.

Jim Parham, Deputy Assistant Secretary for Human Development Services, Department of Health, Education and Welfare; accompanied by Ms. Nancy Amidei, Deputy Secretary, Congressional Affairs and Deputy Under Secretary for Human Development Services.

Panel I

Marian Wright Edelman, Director, Children's Defense Fund.

Dr. Edward Zigler, Yale University.

Nancy Spears, president, National Head Start Directors Association, Lee County Head Start.

Juan J. Gutierrez, National Congress of Hispanic American Citizens.

Panel II

Dr. Ann Taylor, professor, Early Child Development, Carnegie-Mellon University.

Frances Walker, assistant superintendent of public instruction, director, office of child development, California State Department of Education.

Ruth Cumbo, director Prince Georges County Head Start project.

MAY 8, 1978

Hon. Carol Tucker Foreman, Assistant Secretary, Food and Consumer Services, U.S. Department of Agriculture; accompanied by Robert Greenstein, Assistant to the Secretary.

Panel I

Dr. Robert D. Benton, superintendent, public instruction, State of Iowa.

Helen D. Ullrich, executive director, Society for Nutrition Education.

Elizabeth Cagan, chief administrator, New York City School Food Services.

Panel II

Barbara Bodie, Director, The Children's Foundation.

Ellen Haas, Community Nutrition Institute.

Roger Schwartz, director, Food Research and Action Center.

Marie McGlaun, school lunch director, Columbus, Ga., and legislative chairperson, Georgia State School Food Service Association, representing the American School Food Service Association.

David Page, president emeritus, American School Food Service Association.

Panel III

William McMillan, vice president, Government Affairs, National Cattlemen's Association.

Hendrik Wentink, director, Poultry and Egg Institute of America.

Susan Fridy, National Milk Producers Federation.

John Datt, director, Washington Office American Farm Bureau Federation.

MAY 16, 1978

Hon. James Joseph, Under Secretary of the Interior, accompanied by Edward Marich, Acting Executive Officer, Office of Indian Education Programs, B.I.A., and M. Elizabeth Holmgren, Planning Officer, Indian Education Programs, Department of Interior.

Panel I

Dr. Gerald Gipp, Deputy Commissioner of Education, Office of Indian Education, HEW, accompanied by William Blakey, Deputy Assistant Secretary for Legislation (Education) HEW, and William Stormer, Division of School Assistance in federally affected areas, U.S. Office of Education, HEW.

Panel II

P. Samuel DeLoria, National Congress of American Indians.

Patricia Locke and Larry Snake, National Tribal Chairman's Association.

Lionel Bordeaux, president, National Indian Education Association.

Georgianna Tiger, National Indian Education Association.

Billie Nave Masters, chairperson, First American Caucus, National Education Association.

Joseph Dupris, executive director, Coalition of Indian Controlled School Boards.

Leroy V. Clifford, executive director, American Indian Higher Education Consortium.

Panel III

William E. York, chairman, Education Committee Mississippi Band of Choctaw Indians.

Dr. Samuel Billison, director, Division of Education, the Navajo Nation.

Frank Tenorio, secretary-treasurer, All-Indian Pueblo Council.

Joe McDonald, representing Allen Rowland, president Northern Cheyenne Tribe.

Ferdinand Martineau, the Minnesota Chippewas.

Skip Skanen, executive director, Affiliated Tribes of Northwest Indians.

MAY 17, 1978

James T. McIntyre, Jr., Director, Office of Management and Budget; accompanied by Harrison Wellford, Executive Associate Director of Reorganization and Management, and Patricia Gwaltney, Deputy Associate Director for Human Resource Organization Studies.

Hale Champion, Under Secretary, Department of Health, Education and Welfare.

Areas of Discussion

CITIZEN INVOLVEMENT

The committee intends that citizen participation in the implementation of Federal education programs be a major function of the Department.

In testimony before the committee, Dr. Carl Marburger, director of the National Committee for Citizens in Education, stated the importance of citizen participation for increasing confidence in schools and children's educational abilities. Lack of confidence in public schools is alarming. According to the National Center for Educational Statistics, the percentage of people with "hardly any confidence in people running education" has nearly doubled from 1973 to 1976. A 1976 Gallup survey found that 59 percent feel the quality of education is declining. Studies showing increasing declines in high school graduates' reading skills and SAT scores reinforce the lack of confidence in our schools. Even more alarming is that lack of confidence surfaced in the voting booth, where in 1975, 56 percent of all bond issues before the public were rejected.

Also, although in the next decade postsecondary school enrollment will decrease by 15 percent, and elementary school enrollment will decrease by 8 percent, costs are expected to rise by 65 percent.[1] Support from the public will be needed even more as schools will continue to be pressed financially.

Educational research, such as the widely read Coleman study, and subsequent studies based on the Coleman data note that when parents participate in school affairs their children do bettter in school.[2] Also, when children observe their parents having an impact on the school, their self-image becomes more positive. Enhanced self-image has been linked to student achievement in many studies.

In sum, it appears that increased parent and citizen participation in the education process not only assists in increasing confidence in the schools, but also has an impact on the decline in student performance.

Dr. Marburger's testimony pointed out the lack of attention in the Federal education system for concerns of parents and citizens:

> Aside from one person on the title I ESEA staff to handle parent advisory councils, there is no one in the entire HEW Education Division specifically designated to handle parent and citizen concerns.
>
> There is no parent representation and only token citizen and student participation on federal education advisory councils, according to a study NCCE recently conducted.
>
> There is no significant effort through the ERIC system or at the National Institute of Education to provide information directly to interested parents and citizens, despite a clear mandate to disseminate information about public education in such a way as to aid the people of the United States.

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[1] Oct. 12, 1977, testimony before the Senate Governmental Affairs Committee by Dr. Carl Marburger, director of the National Committee for Citizens in Education, part 1, hearings, Department of Education Act of 1977; Marburger reference to NCES, "The Condition of Education," p. 157.

[2] Ibid, Marburger testimony, p. 30.

> The force of many provisions in education law about citizen participation has been dissipated by the lack of a coherent policy governing this issue and the lack of consistent enforcement of the provisions.
>
> The present scattering of education programs all over the government is confusing, and it is difficult for an outsider to identify, let alone reach responsible officials.[3]

Already existing with respect to certain education laws are provisions for citizen participation, although there is no coherent policy governing the issue and no consistent enforcement of the provisions.

Student participation was also discussed in hearings before the committee. Lawrence S. Zaglaniczny, executive director of the Coalition of Independent College and University Students, stated in testimony before the committee, "in the past students have not been included very much in the decisionmaking process."

Both Mr. Zaglaniczny and Joel Packer, legislative director of the National Student Lobby/National Student Association Coalition, suggested the need for a unit which would allow students to be consulted on decisions affecting them and to bring student ideas from across the Nation into the decisionmaking process of the Department.[4]

Their testimony supported the need for increased student involvement and input. Mr. Zaglaniczny stated:

> At the present time, there are no formal channels for the views of the 11 million students enrolled in institutions of postsecondary education to be heard.[5]

He suggested that students be represented on the National Advisory Committee, originally proposed in S. 991, and that the commission conduct studies and produce reports on the condition of the involvement of students and parents in educational decisionmaking at the State, local, and national level. During the committee markup, Senator Percy added the word "students" in several areas of the bill to insure that students would be actively involved in the participatory process.

S. 991 provides a mechanism where input can be provided from among citizens, including parents and students. One of the major functions of the Department will be to assess parental and public participation in programs where such participation is required by law and to encourage the involvement of parents, students, and the public in the development and implementation of the Department's programs.

The committee suggests the Secretary consider establishing an Office of Citizen, Parent and Student Concern to perform this public participation function. OMB Director McIntyre's testimony before the committee recommended such an office. This office could be the public's access point to the Department. It would be an effective means for insuring citizen and parent participation in Federal educational programs and for rebuilding public confidence in education. If such an office were created, it would be responsible for monitoring the enforcement of parent and citizen participation provisions now in law and in-

[3] Ibid.
[4] Testimony of Lawrence S. Zaglaniczny, executive director, Coalition of Independent College and University Students, before the committee, Mar. 20, 1978, transcript, p. 6.
[5] Ibid., p. 23.

forming the public of opportunities to participate in educational policy determination. It could identify program authorities and funds that could or should be used to encourage parent involvement, and assess the effectiveness of parent involvement strategies.

Already existing within the Office of the Commissioner of Education are several offices of special concern (for example, offices for minorities, women, and the handicapped). These offices could be consolidated in this Office and benefit from the resulting coordination and increased visibility. A 1977 study by the Education Commission of the States concluded that Hispanics are consistently below their contemporaries in the rest of the Nation in reading, science, mathematics, social studies, and career development. A unit within this Office for Hispanic Affairs could insure that the Hispanic community is involved in matters of interest to it and could monitor and evaluate existing requirements to insure that Hispanic participation occurs where the law warrants it.

Some of the specific functions this Office could perform would be the following:

(1) Analyze and assess programs administered by the Department to identify current parent, student, or citizen involvement responsibilities, and identify current materials technical assistance that can be used to increase their involvement;

(2) Assess, and report to the Secretary on the implementation of parent, student, or citizen involvement provisions in current law or proposed legislation, and make recommendations concerning the analysis and assessment of this involvement. The Office could be used by the Secretary as a vehicle for coordinating the numerous parent, student, or citizen appointments to departmental boards, commissions, or other panels;

(3) Provide assistance and consultative services to program staff in developing appropriate means for public involvement;

(4) Serve an ombudsman-type function by receiving and channeling for proper attention complaints, grievances, or other input from the public within the Department. This could make the Department aware of the needs of parents, students, and citizens and their involvement in the educational process;

(5) Serve as liaison with education advisory committees, the Federal Interagency Committee on Education, the Intergovernmental Advisory Council on Education, and the Assistant Secretary who has responsibility for intergovernmental affairs. Thus, stronger institutional community ties could be achieved by an effective mechanism responsible for achieving increased citizen involvement in the Department's programs and activities;

(6) Consult with various entities within the Department, such as the Office for Educational Research and Improvement, which are engaged in research or studies pertaining to parent, student, or citizen involvement in education; and

(7) Engage in the dissemination of valuable information on opportunities for parent, student, and citizen involvement in the Department's administration and policy development processes.

The committee believes such an Office, if created, should be at a sufficiently high level in the Department to insure its maximum usefulness and effect. Parent, student, and citizen involvement must cut

across all functions of the Department for it to be successful and to rebuild lost confidence in education.

OFFICE FOR CIVIL RIGHTS

A major purpose of the Department is to continue and improve the Federal commitment to insuring access by every individual to equal educational opportunities. The Department will assume responsibility for effectively carrying out the Nation's civil rights laws in education. The Secretary of Education will provide for the effective administration of civil rights laws.

S. 991 provides for the education components of HEW's Office for Civil Rights to be moved into the new Department. The education-related civil rights functions will be concerned with such provisions as title VI of the Civil Rights Act of 1964 (racial and ethnic discrimination); title IX of the Education Amendments of 1972 (sex discrimination); section 504 of the Rehabilitation Act of 1973 (discrimination against the physically and mentally handicapped); Executive Order 11246 (employment discrimination on the basis of race, color, religion, sex, national origin); and Indian preference functions of Public Law 93–638 (Indian Self-Determination Act).

The progress in civil rights enforcement in education during the past 18 years has led to substantial improvements, but much remains to be done.

The transfer of HEW's education-related civil rights responsibilities provided for under S. 991 is fully consistent with a mandate first expressed in title VI of the Civil Rights Act of 1964 that all Federal agencies assure nondiscrimination in the programs they administer. In order to implement this mandate effectively, organizational arrangements within the new Department will include:

The creation of an Office for Civil Rights, independent of the Department's programs, whose director will report directly to the Secretary.

The designation of the director of the office at an executive level IV position, and appointed by the President with Senate confirmation.

A requirement that the Director for Civil Rights be delegated authority by the Secretary for insuring that all civil rights laws are enforced in all program units of the new Department, and a prohibition against any redelegation of this authority to any official not directly responsible to the Assistant Secretary.

A requirement that the Director prepare and transmit directly an independent report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report would include a statement concerning the Director's plans and recommendations to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

These proposals will assure adherence to civil rights enforcement within the program units of the Department. Presently, the Director of HEW's Office for Civil Rights performs at a GS–18 level. This position is not Presidentially appointed, nor subject to Senate advice and consent. The increased status assigned to the function by

S. 991 will (1) improve the ability to recruit high-level individuals; (2) demonstrate the importance the Federal Government places on civil rights enforcement in education; and (3) assure that the head of civil rights enforcement is accountable to the President and to Congress, as well as to the Secretary.

By including in the Department of Education certain education and related programs not now under HEW's jurisdiction, the Federal Government will be better able to promote equal educational opportunity. The Department of Education will be responsible for civil rights enforcement not only in those programs presently in HEW, but also in certain transferred programs now scattered across other departments and agencies, such as USDA's school lunch and related programs, BIA schools, DOD overseas schools, and Justice's student loan programs.

HEW's Office for Civil Rights estimates that approximately 80 percent of its employees work on education-related responsibilities. This proportion of activity would be transferred to the new Department. In order to insure the Federal Government's commitment to guarantee and secure the basic education-related civil rights of all citizens, the Office for Civil Rights must be staffed adequately to carry out its responsibilities. Under the President's fiscal year 1979 budget proposal, it will have approximately 1,500 staff.

In addition to the concern expressed for adequate and qualified staff in education activities, adequate staff for the health and welfare areas is also of concern.

During the April 14 hearings on the bill, Senator Percy specifically requested from the administration whether additional staff would be required to handle civil rights activities in health and welfare and what would be the effect of the transfer on the effectiveness of civil rights activities in the areas of health and welfare. James McIntyre, Director of the Office of Management and Budget, responded that this transfer would enhance civil rights activities in the health and welfare areas:

> These areas have been dwarfed by education within HEW; in the Department of Health and Welfare they would clearly be given the greater attention they deserve.[6]

In addition, he said:

> It may be necessary to add some staff to handle the civil rights activities in the health and welfare areas.

Mr. McIntyre assured the committee that additional staff would be requested of the Congress if they are needed for health and welfare enforcement.

During the course of its deliberations on S. 991, the committee identified several other issues related to civil rights enforcement that were not appropriate for resolution within the context of this act. Nonetheless, it does have concerns about each of the issues, and expects the Secretary of Education, working with other executive branch officials and appropriate congressional committees, to deal with them in carrying out his or her civil rights responsibilities. These concerns are with respect to the following areas:

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[6] Letter of June 16, 1978, to Chairman Abraham Ribicoff by James T. McIntyre, Jr., Director, Office of Management and Budget.

1. Staffing

OCR must be staffed adequately to carry out its duties. OMB estimates that 1,500 staff will be transferred from HEW's Office for Civil Rights to the new Department's OCR. Civil rights groups have contended that this may not be adequate, especially in light of recent court orders, most notably *Adams* v. *Califano*, and in light of the additional responsibilities which OCR will inherit as a result of the non-HEW education programs placed in the new Department. The committee is not prepared to make a judgment on this issue at this time. It does note, though, that OMB Director McIntyre committed himself in his July 10 letter to Chairman Ribicoff to review OCR's staffing needs within 1 year after the Department's creation "to be certain that the office is capable of carrying out its mandate." The committee believes this is a reasonable approach, and expects OMB to report its findings of this review to the appropriate congressional committees when it is completed, but not later than 15 months after the Department's creation.

2. Compliance procedures

Too often civil rights compliance procedures have been unclear and left too wide administrative discretion. As a consequence, confusion and ineffective enforcement results. This has been true in education as well as in other areas.

The committee believes the creation of a new Office for Civil Rights in the Department of Education presents an opportunity to improve these procedures. It recognizes, as Director McIntyre pointed out in his July 10 letter to Chairman Ribicoff on the civil rights functions in the Department, that the President's reorganization project is conducting a major review of the enforcement of civil rights laws in all federally financed services, including education. It expects that this review will examine a range of options to improve compliance procedures. The committee is especially interested in recommendations that will improve the civil rights effort Government-wide. In particular, the committee expects the study to assess and report on ways to coordinate better enforcement efforts and the use of effective administrative procedures for suspension of Federal assistance in cases where there has been a finding of discrimination. The committee hopes the reorganization project can discuss its findings and recommendations with appropriate congressional committees early in 1979 so they can be taken into consideration during the implementation phase for the Department of Education.

3. Data

The committee believes that adequate data are essential to effective civil rights enforcement. Hence, nothing in this proposed legislation shall be construed to interfere with the enforcement of the Civil Rights Act of 1964, or any other nondiscrimination provision of Federal law, nor to abrogate or otherwise limit the timely collection of such information, or the securing of such records as are necessary to insure the complete and uniform enforcement of these acts among the recipients of the Department's programs.

At the same time, however, OCR must consistently review its data requests in the interest of limiting paperwork. OCR should, in order to help meet this objective, coordinate its information requests with

other agencies in and out of the Department, to make sure it is not asking for data that already exists or will be collected, or to see if modifications of non-OCR data collection systems could provide a more effective and less burdensome means of meeting the necessary enforcement data requirements. After such coordination, however, the committee believes OCR should have the authority to appeal directly to the Office of Management and Budget the right to request any data it determines are needed to enforce the law in such cases where other agencies have tried to delay or reduce OCR's collection capacity, or have refused to accommodate civil rights data needs in their own systems, during this coordination process. The Director should specifically identify any problem he or she has in collecting data in OCR's annual report to Congress, and suggest recommendations to solve these problems.

4. Legal staff

As previously noted, OCR is a law enforcement agency and, as such, should have at its disposal an adequate legal staff to help it carry out the functions, powers, and duties of the office. The Secretary must insure that legal staff paid for with civil rights' funds should only work on civil rights issues.

The OCR Director should have the authority to select, appoint, and employ such officers or employees, including an adequate staff of attorneys, as may be necessary to carry out the functions, powers, and duties of the office. In particular, the legal staff in both the regional and national offices, which is paid for out of the Office for Civil Rights budget, should report to the Director or his or her designee.

The Director, as part of his or her annual report to the Congress, should report on the adequacy and availability of the legal staff at OCR's disposal. OMB should also report to the Congress on this issue in its report on OCR staffing referred to earlier.

During the 6-month implementation phase for creating the Department, the Secretary should work closely with interested groups and individuals concerned with education-related civil rights. Careful attention should be given during this process to addressing the needs of all groups, especially blacks, Hispanics, Asians, women, the handicapped, and the aged. The committee suggests the Secretary investigate the feasibility of setting up a branch of the Office which would be concerned with the protection of the special and unique rights of American Indians, Alaskan Natives, and Aleuts.

The establishment of the Office for Civil Rights provides an opportunity to improve current procedures. The active involvement of those involved in insuring the achievement of equal educational opportunities will be needed. Therefore, these individuals both in and out of government should be consulted to obtain suggestions for possible improvements that could be made during the transition.

The committee expects the Office of Management and Budget will exercise oversight management authority to make certain the Department gives its civil rights responsibilities high priority, and expects the Department of Justice to exercise its supervisory powers regarding title VI of the Civil Rights Act of 1964 under Executive Order 11247.

DEPARTMENT ROLE IN ELEMENTARY AND SECONDARY EDUCATION

S. 991 provides for the establishment within the new Department of an Office of Elementary and Secondary Education to be headed by an Assistant Secretary for Elementary and Secondary Eduction. The committee estimates the new Office will administer more than $6 billion for education programs and have an estimated staff of 864. Since the 1960's, primary Federal education effort has been to increase access to education and to help move toward equal education opportunity for all Americans. The Office of Elementary and Secondary Education will continue this effort by supplementing and complementing State and local government's efforts to eradicate educational inequity and to insure economic productivity.

Although the lives of more than 48 million students in elementary and secondary day schools are touched by the programs established by the Elementary and Secondary Education Act, the direction and administration of these programs is currently assigned to a number of officials buried within the U.S. Office of Education structure. There is little apparent effort by these officials to coordinate these programs to most effectively meet the needs of students in their communities and classrooms.

By placing these programs in the new Department under the jurisdiction of an Assistant Secretary for Elementary and Secondary Education, the committee believes that coordination for better delivery of Federal services to students, schools, and local education agencies can be achieved. A highly visible Assistant Secretary should be accessible and responsive to concerns of local school officials, teachers, parents, and students. An Assistant Secretary can better direct programs officers in streamlining delivery and will have authority to institute delivery procedures which are responsive to the needs of local communities. An Assistant Secretary can oversee the total process of administering Federal education program in such a way that the dollars Congress intends to be expended on actual program operation will go to schools where teaching and learning take place, rather than be squandered on administrative functions in the Federal and State bureaucracies.

This office would be expected to administer such programs as the following:

Title I of ESEA

Title I of ESEA accounts for 47 percent of all Federal elementary and secondary spending. It provides grants to local school districts on a formula basis to help them improve their educational programs to meet the special needs of educationally disadvantaged children. In addition, grants are made to State agencies for the education of handicapped children, for dependent and neglected children, for orphans and juvenile delinquents in State institutions, and for children of migratory workers.

In recent years, the title I program has begun to generate a substantial impact in improved reading and math skills among disadvantaged youths, showing month-for-month gains in reading achievement nearly double that experienced by the general school population and

50 percent greater than that experienced by disadvantaged children not served by title I. Program evaluations funded by HEW and a 3-year evaluation of the program conducted by the National Institute of Education explain those successes as the result of an increased capacity on the part of local education agencies in the practical art of educating the disadvantaged population.

In spite of these successes, only 45 percent of the eligible title I children are being served. An Office of Elementary and Secondary Education will provide an administrative structure which can assure that the funds appropriated actually reach the classroom level where they may be used to provide educational services to disadvantaged youths.

Support and innovation

The consolidated programs contained within "support and innovation" grants consist of (1) supplementary educational centers and services; (2) strengthening State and local education agencies; (3) dropout prevention projects; and (4) school nutrition and health services. When the Congress consolidated these various programs into title IV of ESEA (in Public Law 93–380), one of the primary purposes of that action was to reduce paperwork and regulations and to provide greater flexibility at the State and local levels. However, the current Office of Education has not yet fully restructured its operation to deal effectively with this consolidation. As noted by Senator Henry Bellmon in testimony before this committee, such failure by OE clearly "demonstrates how administrative organization at the Federal level can impede legislative intent." [7]

Bilingual education

The bilingual education program supports local classroom instructional projects and assists in developing State, local, and university capabilities for training bilingual school personnel. In addition, the program also provides resources for bilingual instructional material, and supports research and evaluation studies.

Currently, the bilingual program serves only about 250,000 of the estimated 3.5 million students with limited English-speaking ability. Recent studies have indicated that these students are generally below their peers in basic educational skills. Given the basic responsibility for bilingual education, the Office of Elementary and Secondary Education should work in close coordination with the Office of Research and Improvement, the Office for Civil Rights, and the Office of Postsecondary Education to ensure that the total education needs of bilingual students are being addressed.

Right to read

The right-to-read program provides facilitating services and resources to stimulate educational institutions, governmental agencies, and private organizations to improve and expand their activities related to reading. The long-range goal of this program is to promote functional literacy, meaning effective use of oral and written language which includes listening, speaking, reading, and writing. The Office of

[7] Op. cit., Bellmon testimony, hearings, Oct. 12, 1977.

Education has estimated that between 40 and 50 percent of students in urban areas have reading problems; 90 percent of school dropouts are classified as poor readers; and 50 percent of urban unemployed young people are unable to read. A recent GAO investigation of the right-to-read program found little evidence of coordination between right to read and the other $1 billion worth of Federal programs designed to improve basic reading skills. By placing the program in an office handling the major elementary and secondary education programs, a real opportunity will exist for insuring that these Federal programs directed toward improving bas. skills are not duplicative and that the funds expended for these programs have maximum impact.

Follow Through

Follow Through is designed to sustain and augment in primary grades the gains that children from low-income families make in Head Start and other quality preschool programs. Follow Through provides comprehensive education services, such as special instruction programs, health, and nutrition, which will aid in the continued development of children to their full potential. Follow Through will provide an organizational base in the new Office for a closer working relationship among elementary and secondary education programs and comprehensive preschool education programs.

School assistance in federally affected areas

School assistance in federally affected areas (impact aid) provides payments in lieu of taxes to school districts to compensate them for real property within the district which, because it is federally owned, yields no taxes to support the school system and because of impaction of students upon school facilities and operating budgets due to Federal activity. Impact aid was the first Federal legislation authorizing major support for elementary and secondary education. It currently serves 4,354 school districts located in 411 congressional districts throughout the Nation.

Emergency School Aid Act (ESAA)

ESAA is designed to assist local education agencies, public or nonprofit private organizations and institutions in the process of eliminating, reducing, or preventing minority group isolation and aiding school children in overcoming the educational disadvantage of minority group isolation.

In addition, programs such as the alcohol and drug abuse program and the libraries and learning resources program, might also be included in this Office.

DEPARTMENT ROLE IN POSTSECONDARY EDUCATION

American postsecondary education is a large and diverse enterprise enrolling more than 13 million students in some 3,000 colleges and universities, 4 million students in 1,000 community colleges and over 8,000 noncollegiate vocational postsecondary institutions. Higher education alone is almost a $50 billion a year enterprise which employs more than 600,000 instructional and research staff and 1.3 million administrative and support personnel. Of the estimated $22

billion Federal spending on education, approximately $9.6 billion is directed to postsecondary education.

The bill would establish an Office for Postsecondary Education, headed by an Assistant Secretary for Postsecondary Education, to assure that the needs and concerns of this major sector of education are represented at the highest levels of the Department of Education. The Office would have a staff of approximately 1,200 and have program spending authority in the approximate amount of $3.6 billion.

The need for a high-level spokesperson for higher education was discussed during the committee's hearings on S. 991. One fear raised by some in the higher education community was that a Department of Education might be dominated by elementary and secondary education interests. However, in terms of dollars expended, higher education and elementary/secondary interests are approximately the same. Both categories are funded near $4.5 billion. Dr. Sidney Marland, in testimony before the committee stated:

> While the higher education programs are fewer in number, they are substantially in parity in terms of dollars with elementary and secondary. (Marland, p. 328.) [8]

In response to a written question submitted by Senator Ribicoff to former U.S. Commissioners of Education Dr. Terrel Bell, Dr. Samuel Brownell, Harold Howe, II, Francis Keppel, Dr. Sidney Marland, and Dr. Sterling McMurrin requesting suggestions for balancing elementary and secondary and higher education interests, the overwhelming response supported the need for an Assistant Secretary or Under Secretary for Postsecondary Education.[9] Support for this position was also given by Robert L. Egbert, dean, Teachers College, University of Nebraska at Lincoln, on behalf of the American Association of Colleges for Teacher Education, the Dean's Network and Wilbur Cohen, dean of the School of Education of the University of Michigan.

The Department will become the lead Federal agency in coordinating Federal policies and programs designed to improve postsecondary educational opportunities in the nation. Promoting equal access to postsecondary education should be accomplished primarily by maintaining direct grant and loan assistance programs for qualified and needy students.

Major institutional assistance, with certain exceptions, would not be possible under current congressional authorizations. A notable exception is assistance to developing institutions. Also, the Department would be able to improve institutional capacities through a variety of special grant programs which respond to the specific educational needs of students or instiutions engaged in high quality educational or research programs.

The Department will also be expected to assist the growth and development of a variety of academic programs and related services offered at our Nation's public and private postsecondary institutions. Among the special programs requiring departmental attention and commit-

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[8] Op. cit., hearings, pt. 1, p. 328.
[9] Op. cit., hearings, pp. 270–317.

ments are continuing education programs, lifelong learning library facilities and training programs associated with college instruction and research, counseling and community services, and institutional offerings relating to special services for individuals and groups underrepresented in higher education and certain technical and professional fields.

Characteristics of and changes in postsecondary education

Postsecondary education in this country is exceedingly diverse and extensive. Sectarian and private groups maintain and operate more than one-half of the Nation's 3,000 colleges and universities. Institutions of higher education serve many purposes and many different clients. Each of these institutions should be able to choose and pursue its own course. Department officials should guard against carrying out any practices which have the impact of homogenizing or standardizing policies and services developed by State, local, or private higher education officials and their governing boards or of intruding into the areas central to the autonomy of such institutions.

The Department should initiate procedures that recognize the changing characteristics in postsecondary education. There are significant changes occurring in postsecondary school enrollment. While current projections indicate only moderate increases in enrollment over the next decade, the impact of major changes in curriculum, expansion of student aid programs to middle-income families, and the doubling of part-time enrollment by 1986 may bring a larger increase in enrollment than currently projected.

Support for R. & D. at colleges and universities

Researchers and graduate students at colleges and universities are principal participants in the Nation's basic research effort. Approximately two-thirds of all Federal R. & D. efforts, or about $3.6 billion fiscal year 1979 OMB estimate), are obligated to colleges and universities. Federal agencies involved in basic research, such as NSF, NIH, the Departments of Defense and Energy, will continue their funding of the majority of the research dollars flowing to universities. Although the majortiy of the funds for research, evaluation, policy studies, and demonstrations will undoubtedly remain outside the jurisdiction of the Office of Post Secondary Education, the committee expects this Office to play a major role in assisting the research agenda for postsecondary education issues.

Role of the Assistant Secretary for Postsecondary Education

A primary responsibility of the Assistant Secretary will be to keep the Secretary and the Congress advised of trends in American postsecondary education. The Assistant Secretary will establish continuing reltationships with students, faculty, administrators, trustees, and other leaders to identify issues and problems and to make recommendations for improvements in Federal education programs affecting postsecondary education. Streamlining regulatory requirements and paperwork burdens, which currently hamstring many postsecondary institutions, should be one of the first orders of business.

The committee foresees the Assistant Secretary for Post Secondary Education as the leading figure in directing, coordinating and imple-

menting departmental programs with respect to postsecondary student assistance, institutions and community colleges, and institutional support.

The bulk of the Department's funds for postsecondary institutions will support the several major programs of student financial assistance, which will be administered by the Office of the Assistant Secretary. Federal financial assistance to undergraduates has become a critical factor determining whether or not students from lower and middle income families attend a postsecondary institution. More than 82 percent of the Federal aid to postsecondary education includes grants and loans to students. Of this amount, 91 percent eventually goes to undergraduate institutions.

This act transfers four additional direct student aid programs to be grouped with approximately one dozen direct assistance programs administered by the Bureau of Student Fnancial Assistance in USEO. The Assistant Secretary will adminsiter all "need-tested" Federal student assistance programs. "Need tested" means that financial assistance grants and loans area warded according to the student's or his or her family's ability to pay the cost of posesecondary instruction, and the price of education at a particular college or university.

The Assistant Secretary should consider the benefits associated with subsequent consolidation and coordination proposals. Effective coordination within this Office will greatly enlarge the capacity for simplifying the application process and increase the Federal ability to minimize the cost of defaulted loans by an improved collection process. Most importantly, a single agency will be able to analyze Federal student loan trends and problems in terms of longrun indebtedness to the student and problems in terms of longrun indebtedness to the student and his or her family and in terms of grants programs directed toward equal education opportunities at the postsecondary levels.

In addition, the Assistant Secretary will be responsible for coordination of Federal programs of financial assistance to students at the undergraduate and the graduate and professional levels. Such coordination is essential to reduce the complexity of information on the various specialized scholarship, fellowship, and loan programs conducted by other Federal agencies, and to provide to the greatest extent possible common conditions and criteria for eligibility, application, award, and administration. The Assistant Secretary will also be responsible for administration of the vorious authorities which provide categorical program support for postsecondary institutions to achieve stated objectives.

Analytic activities should concentrate on the distribution of opportunities in postsecondary education, on how students respond to those opportunities and on a range of issues relating t othe extent to which Federal student financial assistance fosters the continuing vitality of postsecondary institutions, including 2-vear community colleges, 4-vear public and private colleges and graduate-level research institutions and programs. Thus, an important function of the Assistant Secretary's Office will be to evaluate the impact of these and other Federal programs on the various sectors of postsecondary education and to identify problems in their administration (including measurement of the burdens of Federal programs and regulations).

The committee also suggests that a director for community colleges report directly to the Assistant Secretary. Because community colleges now constitute a major segment of postsecondary education, such a representative should have direct access to this Assistant Secretary.

OFFICE OF OCCUPATIONAL, ADULT AND COMMUNITY EDUCATION

The creation of the Office of Occupational, Adult and Community Education, headed by an Assistant Secretary, will provide needed visibility, representation, and effective administration for Federal vocational, adult, and community education assistance to the State and local programs, which constitute many times the magnitude of Federal efforts in this field.

Today, over 15 million American children are involved in vocational education. Youth with more education who have less work experience are found to earn substantially more than their counterparts with less education. Adult literacy goes hand in hand with job stability and income continuity. Yet less than 5 percent of adults eligible for basic and secondary education receive serious services.

Because Americans have more leisure time due to advancing technology, education is needed to prepare our citizens for several jobs during their lifetimes. Studies show more than 75 percent of adults in the United States are interested in some form of continuing education. The elderly, and women, especially, seek new educational opportunities.

Schools increasingly are becoming important vehicles for the delivery of services to citizens by using valuable school facilities and costly educational services efficiently with related community services, yet less than 10 percent of the 16,000 American school districts have opened the schools to recreation and community services use. These schools which have opened their doors to the community are involving the people of that community in a total educational program. These schools offer recreation, public health, nutrition education, and other services to citizens of all ages and special services to the handicapped. They are put into round-the-clock service where local communities determine the needs that exist. Thus, community education programs and full use of schools by the community reduce taxpayer costs and promote increased community involvement.

The creation of this Office will provide the necessary administrative structure capable of assisting States and localities in delivering effective education and training and adult community services. The Office will be expected to be involved in perceiving changing trends in education and administering programs which prepare inidviduals for continuous education throughout their working lifetimes.

At the Federal level, this Office will effect a partnership between education programs with occupational outcomes in the Department of Education and manpower utilization programs with significant training components in the Department of Labor. While youth education and employment constitute a primary focus of the work of this Office, preparation of adults and older Americans for access to education and work would be a priority mission as well.

At the State and local levels, this Office will provide programmatic assistance in achieving a blend of vocational, adult, and community

education programs. This blend, in turn, will help to attract, retain, and serve private sector economic enterprise, to improve the quality of life and to coordinate education and work programs. With its focus on concrete skills and performances, the Office will promote exchanges between the schools and the larger community through provisions of grants to States and localities and by dissemination of the exemplary programs currently under development or in operation.

The Office will also serve to promote confidence in and access to the schools by the policymakers and the citizens of each community. The committee notes that respected national population surveys record more than half the Nation as believing we spend too little on education but indicating as well that confidence in school personnel has declined in recent years. With declining enrollments, surplus facilities, and strained resources affecting the long-term prospects for effective American education, the mission of this Office will be to chart the most cost-beneficial, community-responsive link between education and occupation, on the one hand, and school and community, on the other.

The Office's programs would have a fiscal 1979 authorization of over $725 million and would utilize a staff of approximately 236.

In light of the creation of this new Office, the existing functions of the Bureau of Occupational and Adult Education would be located within it and the present Bureau would be abolished. Thus, the new Office would administer the programs now being administered by the Bureau of Occupational and Adult Education. These programs would include those relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. The community schools and community education programs presently located in the Bureau of Occupational and Adult Education would be established prominently within the new Office to be concerned with school-community linkages and would administer and coordinate programs authorized or mandated in a wide range of associated legislation.

VOCATIONAL REHABILITATION

S. 991 establishes an Office of Special Education and Rehabilitative Services within the Department to be administered by an Assistant Secretary for Special Education and Rehabilitative Services. The bill transfers the Rehabilitation Services Administration (RSA) and the Office for Handicapped Individuals (OHI) to the new Department. It consolidates these entities with the Bureau of Education for the Handicapped (BEH). BEH is part of the Education Division of HEW and is being transferred in section 301 of the bill.

The Office of Special Education and Rehabilitative Services would administer functions presently administered by the Commissioner of RSA under the Rehabilitation Act of 1973 and functions administered by BEH under the Education of the Handicapped Act. In addition, it would administer OHI which was authorized by the Rehabilitation Act of 1973 but is not presently administered by the Commissioner, and it will administer the Randolph-Sheppard vending facility program, which is administered by the Commissioner of RSA but was not authorized by the Rehabilitation Act of 1973.

The new Office will not administer vocational rehabilitation services for social security disability beneficiaries, vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disability programs.

The legislation provides for the transfer to the Office of the following functions:

Rehabilitation Services Administration

RSA is presently located in the Office for Human Development Services within the Department of Health, Education, and Welfare. The basic purpose of the vocational rehabilitation programs which RSA administers is to provide a comprehensive program of rehabililitative services for physically and mentally handicapped persons whose disability substantially impedes employment, but who can reasonably be expected to benefit in terms of employability from these vocational rehabilitation services.

There are essentially six program areas that are administered by RSA and are being transferred into the new Department. The program areas are: Basic State grants, innovation and expansion, service projects, research, training, and the Randolph-Sheppard vending facility program.

Basic State grants for rehabilitation services.—The Federal Government provides grants to States to provide the vocational rehabilitation services needed by handicapped individuals to enter into or return to the world of employment. The grants are used to provide the following services: Counseling, referral, placement, vocational and training services, interpreter and reader services, rehabilitation teaching, tools and equipment, transportation, technological aids, construction of rehabilitation facilities, and recruitment/training.

This program constitutes the bulk of RSA's programing responsibility. It receives by far the largest portion of RSA's total budget.

Innovation and expansion.—This program provides State vocational rehabilitation agencies with limited risk capital to try innovation and expansion activities and services which would have significant impact on the vocational rehabilitation of severely handicapped individuals.

Service projects.—This program includes various special service projects which aim at improving the ability of the severely handicapped to work in very specific areas. The projects are: Project and program evaluation, projects with industry, grants for construction of rehabilitation facilities, technical assistance, vocational training services, facility improvement, special projects for the severely handicapped, handicapped migratory agricultural and seasonal farmworkers, Helen Keller National Center for Deaf-Blind Youths and Adults, and client assistance projects.

Research.—This program heading includes two projects.

The first is international research and training activities. Project grants are made to international and domestic public and nonprofit agencies and organizations, and, to a large extent, institutions of higher learning. The grants go toward developing and applying new knowledge to improve the quality of services to the handicapped, leading to maximum participation in gainful employment.

The second project is rehabilitation research. In this case the grants go toward developing new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new methods of providing rehabilitation services.

Training.—Project grants are directly awarded to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, again to a large extent to institutions of higher learning, to provide academic and inservice training in a broad range of rehabilitation professions which contribute to the vocational rehabilitation of the severely physically and mentally disabled.

Randolph-Sheppard vending facility program.—This program is supported by cooperative use of State-Federal vocational rehabilitation funds to pay for staff, vending facility equipment, day-to-day management services, et cetera, to provide employment opportunities for licensed blind vendors on Federal and other property.

Bureau of Education for the Handicapped

BEH is presently located in the Office of Education within the Department of Health, Education, and Welfare. It is the principal agency for administering and carrying out programs and projects relating to the education and training of the handicapped as authorized by the Education of the Handicapped Act, and the Education for All Handicapped Children Act of 1975.

There are essentially seven program areas administered by BEH which are being transferred into the Department. These program areas are: State assistance; special population programs; regional vocational, adult, and postsecondary programs; innovation and development; media and resource services; special education manpower development; and special studies.

State assistance.—Under this general program heading are three more specific projects. The first is the State grant program. The Education for All Handicapped Children Act provides that all handicapped children must be provided educational and related services that are free, appropriate, and individualized. To assist States and outlying areas in meeting the mandate of this act, this program makes grants to help defray excess costs associated with the education of handicapped children at the preschool, elementary, and secondary levels.

The second program concerns funding of deaf-blind centers. This program aims at helping deaf-blind children achieve their full potential for communication and adjustment within society. The program supports regional centers which provide educational and therapeutic services, medical diagnosis and evaluation, and family counseling to deaf-blind children and their families.

The third program is preschool incentive grants. This program seeks to stimulate State and local education agencies to develop and expand educational services to handicapped preschool children, aged 3 to 5, by providing grants to States based on the number of children being served.

Special population programs.—There are two projects contained within this program heading. One of these is the severely handicapped

project. Contracts are competitively awarded to State departments of special education, intermediate and local school districts, institutions of higher education, and other public and nonprofit private agencies, to establish and promote programmatic practices designed to meet the educational and training needs of severely handicapped children and youth, in order to make them independent.

The second project is early childhood education. This project awards grants and contracts to provide models for the delivery of educational services to preschool handicapped children.

Regional vocational, adult, and postsecondary programs.—This program provides assistance to publicly supported educational institutions to promote the development and operation of specially designed or modified programs that offer vocational, technical, postsecondary, and adult educational opportunities for handicapped persons.

Innovation and development.—Grants are made to improve educational opportunities for handicapped children under this program. It supports research and development activities to improve the effectiveness and efficiency of the educational system for these children through research into critical issues, the development, validation, and dissemination of alternative approaches to problems specific to the education of the handicapped.

Media and resource services.—There are three projects grouped under this heading. Media services and captioned films supports grants and contracts to State and local education agencies, institutions of higher learning, and other public and nonprofit private agencies, to help provide handicapped learners with special educational materials.

Another project is the establishment of regional resource centers which offer training for personnel in special education skills, technical assistance in the development of State plans to serve the handicapped, direct referral services, and assistance to local educational agencies and State educational agencies in adopting models of multidisciplinary referral education services.

The last project under this program heading is recruitment and information. Its purpose is to support the dissemination of information about available programs, services, and resources for the education of handicapped children and to provide referral services to parents, teachers, and other interested groups seeking to appropriate educational programs for their children. In addition, recruitment efforts are funded to encourage people to enter the field of special education.

Special education manpower development.—Annual grants are made, under this program, to State education agencies and institutions of higher education to assist them in developing and improving training programs for educational personnel for the handicapped.

Special studies.—These special studies are mandated to measure and evaluate the provision by States to all handicapped children of a free, public, and appropriate education as required by the Education for All Handicapped Children Act of 1975 and to enable the Commissioner of Education to respond to the legislative requirement to annually assess the implementation, impact, and effectiveness of the law. These studies can be conducted by the Commissioner directly or by grant or contract.

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Office for Handicapped Individuals

OHI was provided for by the Rehabilitation Act of 1973. That act authorized the Secretary of HEW to provide a central clearinghouse for information and resource availability for handicapped individuals through the evaluation of systems within HEW, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources which provide information and data regarding the location, provision, and availability of education services and training programs for handicapped individuals.

The committee believes that with the transfer of RSA and BEH to the new Department the resource availability, data collection, and informaiton which OHI could draw on in HEW, as addressed by the Rehabilitation Act, will no longer be in HEW. The primary services for the handicapped as they relate to education will be in the Department of Education. The ties the Office for Handicapped Individuals has with RSA and BEH will be severed if it is left in the Department of Health and Welfare. The committee recognized the necessity of maintaining these ties and therefore transferred the Office for Handicapped Individuals, and its functions, to the new Department to be consolidated with RSA and BEH in the Office of Special Education and Rehabilitative Services.

Committee analysis

After analyzing the programs which RSA and BEH administer, the committee believes it makes good administrative sense to consolidate these two agencies, with OHI, within one Office of Special Education and Rehabilitative Services in the Department of Education.

The committee realized an opportunity to make an organizational change in the existing fragmented programs that can initiate the development of a comprehensive national policy for the education of the handicapped.

There are several reasons the committee believes the vocational rehabilitation programs administered by RSA should be joined with the programs administered by BEH in the Office of Special Education within the Department.

The first reason is that there is a natural relationship between the programs BEH and RSA administer. An examination of the foregoing program descriptions will indicate that both entities have as their common mission improving the ability of handicapped individuals to adapt to society. The committee believes this relationship should be strengthened and that there should be a smooth transition between the general schooling a handicapped child obtains and the vocational education that same individual receives when he or she decides what type of career or vocation to pursue.

The committee also determined there is a significant overlap in the individuals served by BEH and RSA. Although BEH primarily educates children, a significant portion of its programing responsibilities trains adults who in turn train handicapped people. Programs such as the special education manpower development project illustrate this point. In addition, BEH administers programs which counsel the families of handicapped individuals. The regional vocational, adult,

and postsecondary programs further illustrate the various age groups served by the programs BEH administers. On the other hand, RSA does not restrict itself to one age group either. It also trains nonhandicapped individuals of any age who in turn train handicapped individuals.

The committee believes placing vocational rehabilitation programs in the same office with programs concerned with the general education of the handicapped would—whether that general education is achieved through direct training of the handicapped or through the training of individuals to teach the handicapped—provide a continuum of habilitative services for the handicapped from birth through adulthood, as Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, has suggested in a letter to the committee dated May 12, 1978.

Another reason the committee favors placing vocational rehabilitation and the programs BEH administers in one office within the Department of Education is because the focus of these programs is educational. These programs emphasize training. Training is directly related to educational concerns. Moreover, their overall goal is to improve the ability of handicapped individuals to adapt to society. The committee believes this goal is one which the Department of Education will be broad enough to encompass.

Further, it is the committee's determination the goal of helping to make handicapped individuals become productive, to live with the same independence and dignity of nonhandicapped individuals, is much more compatible with the concerns of education than it is with health and welfare. Hardicapped individuals have special needs for services and benefits regardless of income. Education has traditionally made as one of its goals the delivery of services and benefits regardless of income. Health and welfare, on the other hand, as they will exist in the Department of Health and Welfare, will deliver services and benefits on the basis of economic status. Thus the committee believes the Department of Education will better be able to meet the needs of the handicapped as they relate to education.

Another factor the committee took into consideration in coming to the conclusion the vocational rehabilitation programs should be transferred and joined with both OHI and the programs administered by BEH is the significant number of States, 17, that presently administer their vocational rehabilitation programs from their educational agencies. This illustrates the proven compatibility between vocational rehabilitation and education.

While recognizing this existing compatability, it is not the intention of the committee to mandate that any State must administer its vocational rehabilitation programs from its education agency. Therefore, the committee added language to the bill which clearly states that nothing in section 208 shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

During its deliberations on this issue the committee learned of widespread support for the transfer of RSA and its consolidation

with BEH in the Department from Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, the Council for Exceptional Children, the National Federation of the Blind, the American Coalition of Citizens with Disabilities (made up of 75 organizations), the National Rehabilitation Association and the State Administrators of Vocational Rehabilitation.

In conclusion, the committee believes the natural relationship which exists between the programs administered by RSA and those administered by BEH, and the relationship between both of these entities and OHI, merit their consolidation in one office. The committee further believes the focus of these programs is more compatible with the goals of education than with health and welfare. Therefore, the committee realized an opportunity to elevate the status, further the goals, and improve the coordination of the programs concerned with educating the handicapped by placing the Office for Handicapped Individuals, the Rehabilitation Services Administration, and the Bureau of Education for the Handicapped in one Office of Special Education and Rehabilitative Services within the Department of Education.

CHILD NUTRITION

The committee gave careful consideration to the transfer of the school lunch and related child nutrition programs from the Department of Agriculture, where they presently reside, to the new Department of Education.

Two days of hearings were held on the proposed transfer (March 20 and May 8). The nearly 20 witnesses who appeared before the committee represented a broad spectrum of school food service professionals, school administrators, nutritionists, and agricultural producers.

The importance of nutrition in our schools was formally recognized by the Congress in 1946 with the passage of the National School Lunch Act. Over the years, more child nutrition programs were added, and the Federal commitment now stands at nearly $3 billion annually. Today, the school lunch programs are universally available to all the Nation's schoolchildren.

USDA's Food and Nutrition Service presently operates five child feeding programs which will be transferred to the Department: school lunch, school breakfast, special milk, child care food, and summer food service. They are administered and funded through State education agencies, and provide cash assistance to enable schools and institutions to establish, maintain, or expand food service for children. USDA also buys surplus agriculture commodities for distribution to and use in school dining facilities.

The committee believes the child nutrition programs fit closely into place with the overall mission of the Department of Education. The new Department will be concerned with youth and their proper development as individuals. Good nutrition is integrally related to our children's growth and learning. Many studies demonstrate that a hungry or malnourished child does not learn or develop well. USDA Assistant Secretary for Food and Consumer Services Carol Foreman Consumer Services Carol Foreman told the committee:

> This important component of the new Department will represent a clear Federal statement that the responsibility to educate and develop our Nation's children extends beyond the classroom to a wide range of children's needs.

The school feeding programs operate entirely within the context of the school facility and the schoolday. They are as important a function of our schools as lessons, desks, or textbooks. The delivery system for these programs is the educational system. All of the school feeding programs are administered by the State departments of education. The Secretary of Education will be the Federal official who will have direct daily contact with that educational system. Because the Department of Education will be close to the educational delivery system, the programs can be expected to operate more efficiently.

Location of child nutrition programs in the Department of Education will help, most importantly, in forming a uniform administrative chain between Federal, State, and local governments. USDA's data and accounting requirements, funding cycles, compliance procedures, and eligibility standards all differ significantly from those for Federal education programs presently administered by the U.S. Office of Education. The result is burdensome paperwork and redtape for State and local education agencies. According to the Council of Chief State School Officers, the two Federal agencies requiring the most duplicative and time-consuming paperwork are USDA and OE. These top State education officials, who have primary responsibility for the administration of child nutrition programs at the State level, feel the transfer would result in beneficial savings in time and money.

Parallel administration of school nutrition programs on Federal, State, and local levels will foster coordination and standardization. Of all the Federal agencies and programs affecting education, both USDA and OE have the greatest impact and involvement. Placing their school programs under the same umbrella will increase the opportunities for the Secretary of Education to uncover duplication and waste in regulations and paperwork, and correct them.

In their 30-year history at USDA, the school feeding programs have not always fared well. Several administrations have attempted to undercut the programs in response to pressures from powerful agricultural producer interests, which often dominate in USDA. In the past, nutritionists have criticized the influence of "agribusiness" over the programs. In a major report to Congress last year by the General Accounting Office, "How Good Are School Lunches?"—a shortcoming in the performance of the school lunch program revealed by the GAO is the "conflict between the program's agricultural and nutritional provisions." The GAO also concluded the agricultural considerations that retard the school lunch program's nutritional effectiveness "appear to adversely affect student participation." While the current leadership of USDA has given strong support for these programs, the Department of Education can provide a more stable location for the programs.

Transferring child nutrition programs to the Department of Education offers the chance to give nutrition more attention at the Federal level. The Committee believes the creation of the Office of Child

Nutrition, headed by an Assistant Secretary, in the new Department will go far towards building in an institutional guarantee for strengthening the relationship between education and nutrition. The Assistant Secretary for Child Nutrition will be a position of strength and of advocacy within the executive branch.

Locating the child nutrition programs in the Education Department will facilitate coordination with other programs having nutrition components. The Congressional Research Service has identified more than 15 programs in the Office of Education which have significant nutrition responsibilities. Included are titles I and IV of the Elementary and Secondary Education Act, vocational education, consumer education, environmental education, and community education.

The committee believes the Department of Education will provide a sound base for the child nutrition programs. While some may argue educators are not receptive to nutrition programs in the schools, the facts tell a different story:

Today, the school lunch program is available to more than 90 percent of all children in the United States.

While the total number of U.S. schools has dropped nearly 40 percent since the program's inception in 1946, the number of schools participating in the programs has doubled.

The number of children served by the programs has increased from 6 million in 1946 to more than 25 million today.

These figures indicate the success of the school feeding programs in our schools—rates that could not have been achieved without the encouragement and support of the education community. To date, the chief State school officials from the States of Washington, Georgia, Tennessee, Minnesota, Illinois, New York, Delaware, Alaska, Maryland, Pennsylvania, Michigan, South Carolina, New Hampshire, North Dakota, North Carolina, Wisconsin, Colorado, California, Nevada, Iowa, Utah, Wyoming, Hawaii, Alabama, and West Virginia, and also the top education officials of Puerto Rico and Guam, have communicated to the committee their strong support for school feeding programs and for their inclusion in the new Department. Further, the major national educational organizations are on record in favor of expanding the child nutrition programs and including them in the new Department.

The committee further feels the transfer of these programs will not affect the distribution of surplus agricultural commodities to the schools. It has recommended all authority and funding for the commodity program remain in USDA. Commodities will continue to be bought and shipped by two agencies in USDA: the Agricultural Stabilization and Conservation Service, and the Food Safety and Quality Service. To insure the needs of schools are considered in the commodity selection process, the legislation requires the Secretaries of Education and of Agriculture to consult with each other on the preferences of the Nation's schools for variety and quality in commodities. The committee is aware of recent reports of hard-to-use commodities—such as peanut lard or cranberry sauce—being oversupplied to many schools. Also of concern are the reports of the poor quality of some commodities received by the schools. There should be genuine

and serious attempts made by both Departments to adequately meet the needs of schools in providing nutritious and balanced meals.

Coordination between the Department of Education and the Department of Agriculture will not become more difficult by the transfer of these programs. Presently in USDA, there are three different agencies involved in commodity support to the child nutrition programs—each operating separately and distinctly from the other. The new Office of Child Nutrition in the Education Department will simply assume the responsibility, now held by the parent agency in USDA, the Food and Nutrition Service, for providing information on the preferences of the schools to the two agencies which purchase commodities. The committee fully expects the relationships which now exist between FNS and the two commodity agencies already in USDA will carry over to the new Office of Child Nutrition in the Department of Education. This arrangement will resemble the relationship between HEW's Administration on Aging and USDA, where USDA now successfully purchases and transports surplus commodities to institutions which participate in the nutrition program for the elderly, but where primary operational and policy responsibility rests with HEW.

The transfer will not harm links between the programs and nutritional research functions in USDA. In fact, the child nutrition programs really have little to do with USDA's research capabilities. For example, it wasn't until this year—the first time since 1946—that USDA began to draw upon its nutrition research and start to suggest changes in the basic meals patterns for school lunches. These research functions in behalf of child nutrition programs currently comprise only a handful of person-years and can and should continue to be made available to these programs after their transfer. USDA now undertakes more research for programs outside that Department. Further, there are other Federal agencies conducing nutrition research, and the committee believes the child nutrition programs would benefit from their assistance. One of the most active is the National Institutes of Health. The committee is directing that the Department of Agriculture as well as other Federal agencies to make available their expertice to the Secretary of Education and the Assistant Secretary for Child Nutrition.

USDA's ability to effectively develop a workable food and nutrition policy will not be hindered by the transfer. The Committee believes the transfer of child nutrition programs to the Department of Education will not affect the basic mission of USDA, and should not be interpreted as a diminution of that Department. School feeding programs are no more central to the development of food and nutrition policy than are Armed Forces feeding operations, or cafeterias overseen by the General Services Administration. Almost $7 billion worth of nutrition programs will remain in USDA after the school lunch transfer, including nutrition research, food inspection, the Extension Service, domestic food assistance programs such as food stamps, and overseas food donation programs.

USDA will continue to be a strong Cabinet Department. The child nutrition transfer involves less than 1 percent of USDA's total staff. Budgetwise, USDA will be larger than six Cabinet Departments after

the transfer, and equal in size to the new Department of Education. The Department of Agriculture will continue to be the "lead" agency in the Federal Government for food and agriculture.

The committee believes the Department of Education should have a strong nutrition education component. With increasing reports of more plate waste in the schools and the rising popularity of nonnutritional foods, the importance of nutrition education and better dietary awareness becomes critical. Traditionally, USDA has been reluctant to encourage States and localities to develop nutrition education in their schools. A Department of Education will be in a better position to develop and encourage nutrition education. The Department will encourage the development and dissemination to the schools of curriculums which deal with nutrition education and other life sciences.

Last year, Congress provided for a new, $27 million nutrition education program in the Child Nutrition Amendments (Public Law 95–166), where the Federal Government would encourage States and localities, through their State education agencies, to develop their own nutrition education efforts. The committee believes this program should be transferred to the Department of Education, which will have expertise in developing and recommending effective nutrition education strategies, curriculums, and information dissemination. The Nation's schools will be better able to broadly disseminate a successful nutrition education effort. The Education Department will be more familiar than USDA with the needs of the schools, and will be in a better position to expand our children's knowledge of nutrition.

The committee also believes the transfer of the nutrition education program will complement and supplement the large nutrition education efforts already ongoing in the HEW Education Division. The Congressional Research Service has identified the following programs in the Office of Education which have nutrition education components: consumer and homemaking education, vocational education, occupational home economics, adult education, school health and nutrition services for low-income families, centers and services for blind-deaf children, and programs for the education of handicapped children.

Finally the committee believes the transfer of child nutrition programs is important to the creation of an effective Department of Education. One important reason for establishing the new Department is that existing fragmented and scattered Federal education effort is in need of real consolidation. The present situation is one where the Nation's school officials are forced to go from agency to agency in the Federal Government to piece together their financial assistance package. USDA and the Office of Education supply most of the Federal aid that goes to our schools.

They also impose the most time-consuming, costly regulations and paperwork. A Federal Department of Education should, as much as possible, encompass the programs that primarily support our schools. Education is a broad activity which should not be limited solely to the classroom. Nutrition and school lunches are on important part of the school day, and the educational experience. Our students will benefit from the inclusion of USDA's child nutrition programs in the Department of Education.

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS SCHOOLS

The committee recommends the transfer of the Department of Defense (DOD) overseas dependents schools system to the new Department of Education, and believes their inclusion in the Department will allow for the improvement of the education of their students.

As the American role in world affairs grew after the Second World War, so did the need for providing a quality education for the dependents of military personnel stationed overseas. Today, there are 267 DOD dependents schools scattered across 24 different foreign countries serving approximately 135,000 students. The fiscal year 1979 budget estimate for the Schools is $307 million. Altogether, about 10,000 employees are involved in the school system.

Unfortunately, the DOD schools have never been fully statutorily authorized. In the more than 30 years of their "temporary" existence, the DOD schools' authorization has been contained in appropriations bills—normally less than a paragraph of legislative language. Direction and guidance from the Congress has come in the form of detailed committee reports.

The committee believes more attention and oversight is needed for this important school system. S. 991 provides, for the first time, a workable legislative base upon which to build. The legislation establishes an Office of Education for Overseas Dependent Children, to be headed by a high-level Administrator who will report directly to the Secretary of Education.

The schools will represent a major responsibility of the Department of Education. If located within the continental United States, the system would rank as the 12th largest among the Nation's public school districts. The quality of the schools should improve and prosper in the new environment.

The committee finds that the primary purpose and goals of the DOD schools are more in line with those of the Department of Education than the Department of Defense. Obviously, the primary mission of the Defense Department is not education. The schools' budgets are considered along with the rest of the DOD budget, where often there is a limited understanding of the intricacies of operating so large a school system. Although the immediate staff of the DOD schools is made up of professional educators, the top officials in DOD normally have little or no expertise in the field of education. The Department of Education, in contrast, will be the Federal agency having direct contact with in American education.

The DOD schools do not prepare its students necessarily for any purposes related to the military. The schools are regular American public and elementary public schools, serving children from kindergarten through high school. The expertise and research findings in education will be more readily accessible in the Education, not the Defense Department.

Further, the DOD schools should not, by any means, be isolated from the rest of American education. Locating the schools in the Department of Education would help ease the transition of its students to the public schools in the continental United States. There is consider-

able movement between the DOD and the American public schools. Terms of duty for most military personnel average about 3 years overseas. It is both necessary and desirable to provide a sense of continuity for students going from one system to another. The Department of Education will be more attuned to the ever-changing trends in American education, and provide the Administrator of the overseas schools valuable assistance in sensing, adjusting, and responding to these trends.

The committee expects the Secretary of Education will use his or her powers to make available to the schools the vast educational resources in the new Department. The Schools should be allowed to participate in a wide range of education programs not now open to them. The Secretary should make strong efforts to encourage the participation of the DOD Schools in school nutrition programs, vocational education programs, services for the education of the handicapped and gifted children, library and academic facilities improvement, research functions, and other programs which would benefit the Schools.

The transfer of the DOD schools should be conducted with a minimum of disruption. The legislation provides for a 3-year "phase-in" period, during which time the Secretary is required to develop a comprehensive plan for effecting the transfer. The continued efficient operation of the schools is very important, and will require a careful analysis before the transfer plan is actually designed and executed. During the transition period, the committee is directing the Secretary of Education and the Secretary of Defense to work closely and harmoniously to assure a smooth transfer of the schools and avoid any disruption to or deterioration of the education programs conducted in the schools. Section 505(a) insures the agreements between the schools' present administration and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer.

The committee believes the reorganization of the DOD schools which is currently underway should continue, and should not be disrupted during the transition period.

As the Secretary develops the plan for transfer of the schools, the committee is directing that such plan shall include recommendations for increasing parent, student, educator, military, and school administrator participation in the operation of the schools. The committee is concerned with the lack of a responsive, decentralized method in running the schools. The committee suggests the Secretary investigate the practicality and feasibility of the creation of an advisory board or commission, made up of parents, students, educators, school administrators, and the military, which could assume some measure of input over operation and policy responsibilities for the school system. Such a board would facilitate logistical support by including military personnel as members to insure cooperation by the various armed services and the local base commander. The board could act as an effective insulator to minimize the direct involvement in the future of the Secretary in the schools. And, the board would provide real opportunities for guaranteeing that parents, students, educators, school administrators, and military personnel would have substantial

input in the policies of their schools, much in the same way State or local boards of education do in the continental United States.

The committee feels the transfer of the DOD schools to the Department of Education will broaden the scope of the Department, improve the quality of the schools, and most importantly, improve the quality of education for students who attend the schools. The Federal Government has a clear obligation to provide an education of equal or superior quality for the dependents of military personnel.

INDIAN EDUCATION

S. 991 provides for the consolidation of Federal Indian education functions and programs in a new Office of Indian Education in the Department of Education. The new Office would be headed by an Assistant Secretary for Indian Education.

Presently, two different Federal agencies have significant responsibilities for educating Indian students. The Bureau of Indian Affairs operates an extensive education effort for American Indians, Alaskan Natives, and Aleuts. Altogether, the BIA oversees some 220 elementary and secondary schools and three post secondary institutions serving over 50,000 Indian students at a cost of more than $162 million in 1978. In addition, the BIA has large grant programs for aid to public schools serving Indian people ($35 million) and for continuing education ($41 million). The Office of Indian Education in HEW's Office of Education also administers programs that give aid to public schools serving Indian students, and awards funds for special projects in elementary, secondary, and adult education. The total budget for this Office is approximately $60 million in 1978. It is important to note, also, that OE contributes large amounts of money to public school systems—more than $120 million in 1978—for educating Indian students under two primary grant programs: impact aid and ESEA grants for disadvantaged students. OE also contributes about $25 million per year for higher education assistance. Consequently, the total Federal aid to Indian edudcation is more than $500 million annually, split nearly evenly between HEW and BIA.

The legislation would transfer all education functions of the BIA to the new Office of Indian Education in the Education Department. Also, all functions of the Indian Education Office now in OE would be transferred to the new Office.

Generally, the committee believes the overriding reason for the consolidation is the disturbingly poor condition of Indian education. It progresses at a snail's pace under the BIA and OE. Achievement rates of Indian students are much lower than those of other American students. Today, more than 50 percent of Indian students entering elementary school will have dropped out by the time they reach secondary school. At the post secondary level, the Indian dropout rates exceed 75 percent. The quality of both BIA and public schools on or near reservations is extremely poor in most cases.

The Federal Government is obligated, legally and morally, to provide Indian people educational services of equal quality to those afforded other American citizens. But the BIA has a poor record of providing quality educational services to Indian people.

A review of the history of the past performance of the BIA will reveal little justification for leaving education programs in that agency. Education has not been a priority at the BIA for the last 100 years. The Bureau has institutional deficiencies which thwart the administration and development of an effective Indian education effort. Education is only one of several BIA area office functions and responsibilities. BIA area directors are often able to reprogram education funds to other unrelated uses. Many do not view education as an important responsibility. In the BIA organizational setup, the area directors report to the Assistant Secretary for Indian Affairs. The BIA Director of Education, based in Washington, has no authority over area directors.

The primary mission of either the Department of the Interior or the Bureau of Indian Affairs is not education. The internal budget processes of both the BIA and the Department have treated harshly Indian education in the past. There has been a discouraging lack of involvement of Indian people by the BIA in either budget considerations or long-term planning.

The committee also finds that the fragmentation of Federal Indian education programs between two agencies inhibits the development of a comprehensive strategy for Indian education. There is little, if any, coordination between the BIA and OE. The persisting poor condition of Indian education necessitates a cohesive remedial policy on the Federal level.

Further, this fragmentation means there is no, one high-ranking official in the Federal government who speaks for Indian education, or who has the clout to tackle these tough problems and challenges. Presently, there exists a Deputy Commissioner for Indian Education in OE, and a Director of Education in BIA. Both are submerged in their bureaucracies, and their voices cannot be strong. The job is particularly frustrating in the BIA, where there has been rapid turnover in the position of BIA Director of Education. Since 1966, the overall average length of tenure of the BIA Director has been just 9 months. Through the creation of the post of Assistant Secretary of Indian Education in the new Department of Education, one individual could focus in on the crucial problems still ahead in Indian education, and with this high-level position, individuals with high qualifications would be attracted to fill such an important slot.

The committee is concerned about reports that Indian people still have little influence or control over their education. Increased local control is vital to the success of Indian education. Indian representation on public school boards has been slow to develop. Under the BIA, fewer than 35 tribes have contacted with the BIA for school operations. The Bureau has slowly implemented the congressionally mandated policy of Indian self-determination in education. The committee feels strongly a major objective of the new Office of Indian Education in the Department of Education should be increased local control of Indian education by Indian people.

Postsecondary educational assistance to American Indians, Alaskan natives, and Aleuts needs more direction and development. Although some real gains have been made in recent years, still a disproportionately large number of Indian people do not go on to some form

of higher education. In addition, the disturbingly high dropout rates indicate the BIA postsecondary education programs are poorly run. Transfer to the Department of Education should provide for a stronger, coordinated focus on Indian higher education problems and programs.

Of major importance is for the Department of Education to recognize the unique and special needs of American Indians, Alaskan Natives, and Aleuts. The committee is directing the new Department to recognize and respect the special legal relationship—the trust responsibility—which exists between the Federal Government and Indian tribes. The committee believes the creation of the new Office of Indian Education in the Department of Education will strengthen the trust responsibility. The prevalence of socioeconomic and educational disadvantage among Indians make the provision of adequate services by the Federal Government vital.

In our consideration of the legislation, the committee actively solicited the comments and input of more than 350 Indian tribes and organizations across the country. The legislation, as reported, goes far towards meeting nearly all of the Indian community's concerns.

Specifically, the bill sets up a distinct, tangible office within the Department devoted solely to the special concerns of Indian education. The Office and its Presidentially appointed Assistant Secretary will report directly to the Secretary of Education. Both will be on an equal footing with other educational interests in the new Department. The existing BIA education programs will be specifically transferred to the new Office, and will not be "lost" in the Department.

The legislation stipulates the transfer of Indian education programs to the Department of Education will not alter the trust responsibility. Again, the Department and the Secretary of Education are expected to recognize their special, legal, and unique requirements to meet the needs of Indian people. They are bound by law to respect the trust responsibility. The committee will be carefully monitoring the Department of Education's adherence to the trust responsibility.

The transfer of Indian education functions will not change the existing eligibility standards for both the BIA and the OE programs. Presently, the BIA serves only Indian tribes recognized officially by the Federal government. OE uses the same eligibility standard for its impact aid programs, but for other programs uses one that is much broader, and often includes Indians not federally recognized. While the committee sees the need for tightening the definition of "Indian" used by OE, it is not in our jurisdiction or our field of expertise to make a substantive policy change. The legislation forbids the changing of either definition by the transfer. The committee believes the issue of how to define an "Indian" is better left to the Indian people and the authorizing committees in Congress to decide. The committee expects the transferred BIA programs will continue to service federally recognized tribes exclusively.

The new Office of Indian Education will be governed by existing Indian preference laws in the hiring of its employees. The committee expects the Assistant Secretary for Indian Education will go to great lengths to promote Indian preference in the Office's programs and services, which would go a long way towards instituting more Indian

control over Indian education. The Assistant Secretary should make strong efforts to select highly qualified Indian people to fill positions in the Office. The committee is aware of the problems created by sometimes restrictive civil service requirements in federally funded programs affecting Indian people. The Assistant Secretary and the Secretary of Education, in submitting their comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts, should make recommendations to Congress for improving the efficiency and effectiveness of personnel in Indian education services operated by the Federal government.

Great care should be taken in the selection of the Assistant Secretary for Indian Education. The committee expects such an individual will be of Indian, Alaska Native, or Aleutian origin. The President, in selecting a person for this important position, should consult widely with Indian tribes and organizations. The Assistant Secretary should have impressive qualifications and much experience in Indian education. The Assistant Secretary should be afforded sufficient latitude in the Department of Education to actively promote the interests of Indian education throughout the entire Department.

The legislation amends the Indian Self-Determination and Education Assistance Act to make its provisions fully applicable to the new Department. Self-determination is an important concept to the Indian people. It enables Indian tribes to contract services normally provided directly by the Federal Government and operate them on their own. The committee believes self-determination and the contracting authority are important and critical tools for instituting more local control of education by Indian people. The new Department is expected to cooperate fully with the law and encourage Indian tribes to contract these services. The Department and the Office of Indian Education should make special efforts to assist tribes with the necessary technical assistance to operate these programs. It is important that the contracting authorized under the Self-Determination Act be administered with as few burdensome restrictions as possible. The new Department should make sincere efforts to minimize contracting problems, such as making arrangements to cover startup costs and determine tribal funding needs in advance.

The bill directs the Secretary of Education and the Assistant Secretary to institute more local control of Indian education by Indian people. Primary policy responsibility for schools should reside with the local community. The committee believes the new Department should institute more direct funding of Indian education programs with as few strings as possible. Funds, functions, or programs administered by the Office of Indian Education in the new Department should not be channeled through State education agencies. A direct relationship between the Office and the tribes will result in fewer rules, regulations, and unnecessary paperwork.

S. 991 requires consultation and coordination between the two top Federal Indian officials—the Assistant Secretary of Indian Affairs in BIA, and the Assistant Secretary for Indian Education. The BIA will continue to be the "lead" agency in the Federal Government for Indian affairs. Important trust protection, advocacy, and natural resource functions would stay in the Bureau.

Indian tribes have a unique relationship to civil rights laws, and members of those tribes enjoy a special status. The special Government-to-Government relationship between the Federal Government and the tribes exempts Indians and Indian tribes from certain civil rights restrictions. Indian preference in personnel actions, for example, is based on this special relationship. At the same time, Indians as citizens are entitled to the protection of the civil rights statutes. The committee believes this special dual status requires a special expertise, and that the Secretary should consider establishing a separate division for Indian education in the new Department's Office for Civil Rights.

Finally, the legislation provides for a 3-year "phase-in" period for the BIA school system. It is important that the transfer of the operation of these schools to the new Department be conducted with little disruption and much consultation with Indian people. The bill calls for the development of a comprehensive study for effecting the transfer of the schools. The Assistant Secretary for Indian Education should make a strong effort to seek the advice and counsel of Indians, Alaskan natives, and Aleuts and involve them in planning for the transfer. In carrying out the transfer, the committee expects that all support services necessary for the effective and efficient operation of the schools be also transferred, including construction planning and oversight, general planning and evaluation personnel, and other incidental administrative and support personnel.

In conducting the comprehensive study of transfer, the committee directs the Secretary and the Assistant Secretary to fully investigate and report back to Congress the feasibility of and possible proposal for the creation of an advisory Indian education review panel. The committee believes there is a strong need for insuring Indian people's input into Indian education policies and programs at the Federal level. The proposal for an all-Indian board or commission should be developed in full consultation with Indian people and, if recommended, should be established as soon as is practicable. The committee has been impressed with the diligence of effort and expertise of the National Advisory Council on Indian Education, established by the Indian Education Act. NACIE provides a valuable service to the Congress in the form of an effective forum for the exchange of ideas and information. At the present, however, NACIE is primarily charged with advising the OE Office of Indian Education on its programs and services. The committee believes the possibility of using NACIE as the vehicle for advising and reviewing the policies of the entire new Office of Indian Education in the Department of Education should be considered.

The committee has assured all American Indians, Alaskan Natives, and Aleuts this proposed consolidation is not a move toward termination of the Federal trust responsibility. The legislation goes far to meet and safeguard their special interests. It is a renewed deep, and sincere effort to improve the quality of Indian education, and ultimately, the quality of life for Indian people. Throughout the findings, purposes, and functions sections of the legislation, the importance of tribal governments and Indian people in the process of education is emphasized. The committee is directing the Department of Education to devote special attention, and a good portion of its resources, to to the needs of Indian students.

The Department will assume the administration of a number of science education programs presently located within the Science Education Directorate of the National Science Foundation (NSF).

S. 991 insures appropriate placement for the science education programs by transferring them specifically and intact to the Office of Educational Research and Improvement. Within such an organizational structure the science and technology programs would constitute approximately one-fourth of the R. & D. programs categorized and administered by this Office. The committee expects science education to be both a visible and substantial component in the new Department, as well as a special entity which will complement science and technology initiatives supported by the NSF and other science and research agencies.

Transfer of these programs will enable the Department to take an active role in assisting the improvement of the quality of science teaching in schools and in undergraduate postsecondary institutions, as well as in improving public understanding and science literacy among the general public. The Department will assume primary responsibility, not only for the specific science programs transferred, but for the conduct of studies, surveys, and evaluations relating to the quality of science teaching and learning and improved public understanding of science. Dissemination of science curricular materials and teaching practices should become a departmental priority.

A science education unit in the Department is expected to assist in enhancing the quality of school science programs and the quality of teaching and to eliminate unnecessary overlap between education programs supported by NSF and the authorities administered by HEW's Education Division.

The Education Division supports projects worth millions of dollars which deal with science education and curricular development (for example, environmental education, metric education, ESEA, and emergency school aid science and math projects) and supports research relating to teaching subjects including science, math, and the use of instructional technologies. Thus, apart from the NSF science education programs, the Department of Education will administer hundreds of millions of dollars for science-related and mathematics programs. The substantive quality of science and math curricular research and development programs will be assured by the direct involvement and assistance of scientists and science educators who will serve as staff, reviewers and consultants. The success of the Department of Education will depend a good deal on the extent to which scientists, social scientists, university researchers, and academicians participate in the Department's activities. These programs, along with those of science education, are expected to give strong impetus to science education in the new Department.

Declines in science achievement over the past decade have required renewed attention. Achievement in science, as measured by various national surveys and standardized tests, has steadily declined. Many science and mathematics teachers admit to having been inadequately trained. According to the recent report from the National Assessment

of Educational Progress (NAEP), high school "youths continue their downward trend in science despite the ever-growing demands of a technological society."

A strong commitment to science education will necessitate the placement and support for a strong and visible organizational entity in the Department which concentrates attention and resources on science improvemet. This unit will be located within the Office of Educational Research and Improvement and parallel other major efforts which focus on basic and applied research, postsecondary education improvement, and other program units which report directly to the Assistant Secretary for Research and Improvement.

The NSF programs transferred in the legislation represent approximately $56.3 million out of the entire $77.6 million fiscal year 1979 request) for the Science Education Directorate in NSF and will require the transfer of no more than 90 personnel.

S. 991, as originally introduced, transferred the entire NSF Science Directorate to the Department. S. 991, as reported, is consistent with the President's proposal for reorganization. Only those programs aimed primarily at students and teachers in the elementary and secondary and undergraduate institutions will be transferred to the new Department. The programs which would remain at NSF include those aimed at recruiting and training scientific researchers, those programs requiring direct participation of scientists, and those which provide science information and assistance to citizen groups. The programs transferred are the following:

Teacher training.—These programs are primarily designed to assist in improving and updating the quality of experienced elementary and secondary school or teachers at all levels. Since the early 1950's, these workshops and institute-type programs have been extremely popular among teachers, and in 1979 some 18,000 persons will participate.

Student oriented.—These programs are directed at identifying, teaching, and involving (in laboratory and clinical settings) some of the Nation's most talented high school students In 1979, some 5,000 students will participate in these programs, many of whom will be minorities and females who will receive encouragement to enter scientific fields.

Institutional support.—These programs provide funds for improving institutional facilities and equipment, primarily at 2- and 4-year colleges, including undergraduate colleges which serve blacks and other minority groups.

Science education research and development.—These programs emphasize assistance in developing innovative curricula and technologies and designing science programs for all youths and adults, including those created exclusively for the gifted and talented in preschools, schools, and undergraduate institutions, or in nontraditional settings.

Public understanding of science programs.—These programs are designed to assist in improving the public's understanding of scientific principles and technological content which may be involved in broader public policy and political issues. These public understanding programs rely more on the use of television, radio,

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and museums than on traditional school programs. For example, Children's Television Workshop, the producer of "Sesame Street," will develop a science education series for children aged 8 to 12 in 1979.

However, certain public understanding of science projects, for example, those requiring a more direct involvement participation of the scientific community, will remain in NSF, as described below.

The transfer of the existing science education programs from the NSF to the Department will not have the effect of amending Public Law 81–507, authorizing the creation of the National Science Foundation and the Science Education Directorate. The NSF will continue to assume responsibility for strengthening scientific research and may initiate new scientific programs and projects which relate to personnel and institutional development and public understanding, when they draw upon the scientific expertise of that agency.

The NSF will maintain its primary educational function by continuing its support for fellowships and traineeships closely associated with graduate and postdoctoral research programs. NSF will also retain responsibility for special graduate fellowships and traineeships for students and faculty in minority institutions and for other efforts which provide support for underrepresented individuals, that is, ethnic minorities, women, handicapped persons, who have the desire and potential to enter scientific and research careers, or to enroll in graduate schools, colleges, and universities to pursue scientific careers. The National Science Foundation will also retain its responsibility for sponsoring basic and fundamental reseach that may relate to education and to human growth and development. Studies in cognitive development, linguistics, and those relating to various social science disciplines will continue to be promoted and funded by the appropriate Directorates within the NSF.

Project activities under the science and society program will continue to be administered in the Foundation, with the exception of certain activities relating to public understanding, which will be a shared responsibility among a number of Federal agencies. The science and society program is intended to bring about greater understanding and improvement to the relationship between the scientific and technological communities and to the larger society. Improving the public's understanding of complex science and technological principles and information often requires the direct involvement and participation of top scientific and technical expertise. As a result, the committee feels the NSF should not be discharged from this set of activities. Much of this effort helps to assure the involvement of the research and academic communities in contemporary debates on public and social policy. This effort provides important assistance to public-interest groups seeking scientific and technical expertise and also examines ethical and value issues in science and technology.

The committee shares the concerns which have been expressed over maintaining the quality and relevance of the content of science education teaching and materias, as well as those relating to general attitudes toward and appreciation of science and the work of scientists. Presently, there is a relatively high degree of public confidence in the abiltiy of scientists and technologists to solve some of

society's major problems. The attitude that prevails in our Nation today about the importance of the work of the scientific enterprise and its professionals is due partly to the quality of science teaching and the attitudes toward science which schools and colleges engender.

However, the committee recognizes the problems associated with expressions of distrust and disenchantment, regarding the benefits of technological advancement and scientific research. Improvements in the quality of science programs in schools and educational activities directed to the general public can provide the general public with the background necessary to participate effectively in decisions affecting the work of the scientific communities.

The Department should work closely with NSF and with other scientific agencies, institutions, and associations to improve contacts between the scientific and nonscientific communities and between scientists and professional educators. Assurances in these directions will ultimately lead to improved public understanding of and appreciation for science.

NSF's enabling legislation requires the agency "to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government," and to evaluate "the research and education programs undertaken or supported by the agencies of the Federal Government." In carrying out these mandates, the NSF should monitor the science-related policies and efforts of the Department of Education, just as it monitors the research and science education programs of other Federal departments and agencies.

Philip M. Smith, Assistant Director of the Office of Science and Technology Policy, stated his view to the committee on the relationship of NSF to the Department of Education:

> The safeguard is that NSF would retain its current broad statutory authority for support of science education. NSF would complement Department of Education activities by focusing on innovative projects that tap scientific resources to invigorate the content of science education. A Department of Education could therefore provide NSF with new opportunities to initiate innovative and highly experimental activities needing testing prior to their application.[10]

NSF will continue to support basic or fundamental research relating to education and to initiate proposals for research, training, or developmental projects relating to education when it feels such an activity is in the national interest and within the scope of its mission and agency mandate "to promote the progress of science."

The committee urges the Secretary of the new Department and the Director of NSF in consultation with the Director of the Office of Science and Technology Policy to consider the creation of a special ad hoc committee to prepare immediately a policy guidance memorandum (memorandum of understanding) with respect to the roles of NSF and the Department in supporting science education activities in general and the specific policies and procedures for continuing

[10] Philip M. Smith, testimony, hearings, before Senate Governmental Affairs Committee on S. 991, Apr. 18, 1978.

and/or extending the science education programs transferred from NSF.

A more comprehensive strategy for examining ways to improve science education should also be initiated and prepared by an interagency group of specialists under the direction of the Federal Interagency Committe on Education, and with analytic support from the National Center for Education Statistics. Such a strategy should consider an overall assessment of the quality and availability of resources involved in teaching and communicating scientific information. It should identify the amount and quality of Federal, State, and local resources directed to science education in schools and undergraduate institutions, and most importantly, it should assess the performance of students participating in science educational programs, as well as the levels of science literacy among the general citizenry. Special analysis should account for the extent to which disparities exist among performances of individuals in special groups, demographic areas, or certain educational institutional settings. Analysis of these problems may require outside consultative and evaluation services, commencement of specialized policy studies of previous research findings, and a utilization and interpretation of recent studies and surveys, such as those conducted under the National Assessment for Educational Progress, or for the National Science Board.

Finally, the committee urges the Secretary to make extensive use of scientific talent among the academic and university communities. Limitations of salary and expense (S. & E.) funds often preclude more direct outside participation in planning, budgeting, and evaluation activities. Nevertheless, the committee feels strongly that immediate steps and plans need to be developed by the Secretary to assure the direct and continued involvement of the scientific community in the development of general science-related policies, in specific tasks associated with the evaluation of competitive grant and contract applications, and in the monitoring of ongoing science education projects, institutes, and dissemination efforts.

The participation of both scientists and social scientists should not be limited to the administration and direction of the science education programs transferred from NSF. The Secretary should involve professionals from the academic communities in all program-support activities that relate to scientific teaching and learning, and in all policy planning and developmental activities which would benefit by input from the academic disciplines and from expertise of persons with scientific understanding and methodology skills.

The committee expects the Secretary to make use of provisions of this act which govern appointments and compensation with respect to scientific and technical personnel. A major factor for the success and influence of NSF's science education efforts has been attributed to its strong commitment to the steady rotation of scientists from the field into the agency. Continued use of noncompetitive appointments should be based on highly selective skills or knowledge which may not be available in the agency as well as a general desire to have notable and competent science educators functioning within the agency at all times. Technical assistance to other Federal education program managers and project officers and to other interested groups or individuals concerning science education should be a significant departmental function apart from the funding of programs. Transfer of per-

sonnel from NSF to the Department should help to build the nucleus of a cadre of expert science educators. An immediate review of staffing requirements for the science education activities should be undertaken.

Finally, the Secretary should also make note of the committee's concern for the organizational placement of the science programs being transferred. The committee recommends that a supergrade-level person with a strong science background should directly supervise the science program activities.

HUD COLLEGE HOUSING PROGRAM

The committee recommends the transfer of the college housing program, presently administered by the Department of Housing and Urban Development (HUD).

The college housing program was created by title IV of the Housing Act of 1950, as amended, to assist higher educational institutions, through long-term Federal loans, in the construction, expansion, or rehabilitation of dormitories, dining halls, student unions, infirmaries, and other campus housing. The program's budget for fiscal year 1978 was $111 million. Interest rates for the loans average about 3 percent. More than $3 billion in loans to publicly operated postsecondary educational institutions are still outstanding. For the private institutions participating in the program, nearly $2 billion are outstanding.

Generally, the committee believes the transfer of the HUD college housing program would allow for the development of a consolidated assistance program for construction of higher education facilities. There already exists in the Office of Education the higher education facilities loan and insurance fund, the purpose of which falls into line closely with the college housing program.

The committee further believes it will be important that the present high level of efficiency of operation of the program not be disturbed by the transfer. HUD now uses complex legal agreements and procedures for operating the program, and their transfer should be carried out with a minimum of disruption and burdensome changes. The committee recommends the Department of Education continue to use the services of the Federal Reserve Bank as the fiscal agent for the Department. Coordination between the Department and the FRB should be close and strong during and after the transition period.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

The bill provides for the establishment of an Intergovernmental Advisory Council on Education. Helen Wise, member of the Pennsylvania State House of Representatives, commented that the Department of Education "presents an important opportunity to improve Federal-State and Federal-local relations in education programs and policymaking." She further stated:

> Federal sensitivity to State and local concerns in the area are absolutely essential . . . If the legitimate Federal role is to be most effective, then the Federal executive branch and State and local governments must have the maximum opportunity to understand one another.

The Council will provide such a forum for representatives of State and local government to discuss and impact on Federal education programs and policies.

The Council will advise the Secretary and the President on intergovernmental problems, progress, and concerns regarding education and intergovernmental relations. It will serve as a strong influence at the Federal level which recognizes the primary responsibility for education resides with State, local, and tribal governments, public, nonpublic, and private institutions. OMB Director James McIntyre's testimony before the committee in support of an Intergovernmental Advisory Council suggested it would improve the intergovernmental system for developing and carrying out education policies.

Appointed to the Council by the President would be 22 nonpartisan representatives from State and local government, State and local educational agencies, and private citizens, including citizens, students, and nonpublic institution representatives.

The committee recognizes that Federal education policy has expanded dramatically without an assessment of the resulting changes and impact at the State and local levels. The creation of an Intergovernmental Advisory Council on Education provides opportunities to solve existing problems in education. The Council should be a vehicle for improving intergovernmental relations by highlighting intergovernmental issues. It will provide a forum for all parties having intergovernmental interests to assess the Federal Government's impact upon education policy. It will be in a position to encourage improved management of education at all levels and insure that the Department will be responsive to a wide range of interests.

The Department itself will be served by the Council. The effectiveness of most Federal programs repends upon the delivery of the service of those programs at the State or local level where the Federal Government has limited authority. The widely-scattered education programs have caused confusion for State, local, and private agencies with respect to fragmentation and duplication at the Federal level. Testimony before the committee by Lubbie Harper, Jr., executive assistant for the New Haven Public Schools, commented on the disparity between State and Federal guidelines. State agencies must deal with a myriad of agencies at the Federal level which often result in excessive amounts of paperwork requirements. The Council will provide a mechanism for involving the public to facilitate intergovernmental coordination. It will assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions.

The Council is not intended to be a buffer between the Secretary of Education and the President or Congress, nor is it expected to be involved in the day-to-day operations of the Department or in the annual budget process. Its purpose is to work toward the attainment of Federal, State, and local educational objectives. Its focus should be upon the long-term health of the intergovernmental system for managing education.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

There is a strong need for effective coordination of education programs in the Federal Government. The committee believes a useful tool for the Secretary of Education in achieving this coordination will be the Federal Interagency Committee on Education (FICE).

FICE was first created by an Executive order issued by President Johnson in October 1964, and later revised and updated in another issued by President Nixon in January 1974. In both cases, the FICE was created because:

> Continued close coordination of Federal educational activities will facilitate the resolution of common problems and otherwise promote effective planning and management of (education) activities.

Through the creation of the Department of Education, the Congress will be taking a giant step toward consolidating a widely scattered, badly fragmented Federal education effort. Although the Department will, as provided for in S. 991, consolidate more than 170 education programs, there will still be other education programs in various Federal agencies. Coordination of these programs with those of the Department of Education will be an important function of the Secretary.

One such example would be in the area of international education. Increasing global interdependence hastened by exchanges of ideas, people, technology, natural resources, and culture make international education an increasing part of the learning experience of all Americans. The establishment of FICE will provide an excellent vehicle for the Secretary of Education, who has primary responsibility for internal activities, to work with the Director of the International Communication Agency (ICA) who has primary responsibility for coordinating external activities in education and cultural affairs to propose and coordinate strategies for improving programs in international education.

For higher education, the importance of a strong FICE increases. As Charles Saunders of the American Council on Education told the committee:

> The higher education community has had more interest in other programs elsewhere in the government than in the (HEW) Education Division. But at the same time, the need to coordinate the relationship across the government still remains very acute.

At the present the existing nonstatutory FICE does not function at the Secretary level. The chairperson of FICE is the Assistant Secretary for Education. Agency representatives to the committee are often not high-ranking officials, which detracts from its effectiveness.

S. 991 elevates and upgrades FICE and gives it new prominence. The legislation mandates the chairperson shall be the Secretary of Education, thereby giving the committee Cabinet-level leadership. The bill names some of the key Federal agencies which must desig-

nate representatives to FICE. In addition, the Secretary can appoint other members to serve on FICE or to participate in its meetings. Other participants or members might include ACTION, ICA, and the Smithsonian Institution. The language stipulates that these individuals must be from high-ranking, policy-level positions. The committee believes this is crucial, as these members will be in a position to better implement FICE's recommendations in their specific agencies.

The legislation provides statutorily for FICE. The committee, which is charged with studying the Federal Government operation and structure with an eye towards efficiency, believes coordination will be one of the single most important tasks of the Secretary of Education. A job this important should not be left to Executive order authority, when priorities and needs change with the coming and going of different administrations. With S. 991, coordination of Federal education programs becomes a congressionally mandated priority and function.

The conduct of various studies, surveys, and evaluations relating to the overall impact and influence of Federal educational activities are also important initiatives for the Secretary to direct. The committee believes the Secretary should make great use of the FICE in conducting such studies to facilitate interagency cooperation.

RESEARCH AND IMPROVEMENT IN EDUCATION

The committee has paid particular attention to the need to provide the new Department with a strong base for its research and improvement activities. The bill establishes an Office of Educational Research and Improvement (ERI), headed by an Assistant Secretary for Educational Research and Improvement.

The Department's assistance in the development of new knowledge about the educational process, and encouragement of its use in improving education, will be a major activity of the Department of Education. Both the Administration and organizations representing educational researchers have endorsed the importance of providing for a strong research component within the new Department, James T. McIntyre, Jr., Director of the Office of Management and Budget, told the committee:

> The research and improvement functions must receive a high place in the Department, given the important role of the Federal Government in supporting such functions. We expect that by giving these functions more prominence in the new Department, the research efforts funded by the Federal Government, and the ability to disseminate information on different approaches to learning and development will be enhanced.[11]

The American Educational Research Association, in prepared testimony for the Committee, stressed that "it is necessary for education research, evaluation, development dissemination, and analysis to be structured into a position of influence within the department."

Testimony given the committee by former Commissioner of Education S. M. Brownell aptly stated the importance of such a component:

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[11] McIntyre testimony before Senate Governmental Affairs Committee on S. 991, May 1, 1978.

> In summary, I have a strong conviction that there is need for a separate education research component within the Education Department which should be able to assist and be assisted by many of the service units in the Department. But it also should have the status and resources to promote basic research in education in universities. Probably a large measure of its resources should be channeled to applied research in educational research institutes, centers or experiment stations which could be held accountable for the continuity and quality of the field testing. It would be my judgment that it would require an individual with the rank of Assistant Secretary for Educational Research to head this important function in the Department.[12]

In total, more than $700 million is spent on statistical analysis, research, development, demonstration, dissemination, and evaluation efforts in the Education Division of the Department of Health, Education, and Welfare, the National Science Foundation Science Education Directorate, and other programs that would be transferred to the new Department by S. 991.

Support for research and improvement activities are the mechanisms through which the Federal Government can least intrusively and most productively increase the capacities of State and local and private educational agencies, other levels of governments, private organizations, and individuals to improve the quality of American education.

Federal research and improvement activities: An overview

Given the importance of the Federal government's support for research in education, the committee's attention focused on numerous Federal agencies conducting educational research. The National Institute of Education (NIE) has the mandate to both conduct and coordinate educational research at all levels. The National Science Foundation, particularly through its science education programs, directs large amounts of money toward educational research, development, and improvement of science education. The Fund for the Improvement of Postsecondary Education (FIPSE) supports innovative projects in the area of post-secondary education, and the National Center for Educational Statistics (NCES) collects data, and conducts a wide range of research surveys on all aspects of education. The Office of Education administers the majority of research-related program activities in the Education Division, for example, operating programs in vocational education, education of the handicapped, and titles I, III, IV, VII of the Elementary and Secondary Education Act, support applied research and demonstrations designed to improve educational practice.

The committee is convinced that a much more rational organizational structure should be designed for the plethora of Federal efforts to support analysis, investigation, and improvement of our educational system. Moreover, the research and improvement activities of the Federal Government need to be more effective and efficiently managed.

An Office of Educational Research and Improvement

S. 991 establishes an Office for Educational Research and Improve-

[12] Op. cit., Brownell testimony, hearings, Oct. 13, p. 323.

ment, in order to correct problems with, and build on the strengths of, current research and improvement activities at the Federal level. The Office will be headed by an Assistant Secretary (executive level IV).

In establishing an Office of ERI, the committee is both certifying the role and elevating the priority of Federal R. & D. activities which are designed to improve education, public understanding, and the capacities of educational institutions at all levels.

The new Office will serve as an integrating and coordinating mechanism for supporting the effectiveness of a wide range of research, development, demonstration, dissemination, evaluation, analytical, and other activities facilitating change.

The committee considered several alternative ways of reorganizing these functions.

To many, the National Institute of Education appeared to be a logical base from which the Federal Government might build a more rational and comprehensive research and improvement function. The committee considered effects of expanding the National Institute of Education so as to incorporate many of the research, development, demonstration, and dissemination functions now performed by such diverse agencies as FIPSE, the science education programs of the Science Education Directorate of NSF, and many education program offices of the current Office of Education. Another proposal considered was to lapse the National Institute of Education but transfer its functions and those of other programs, to a new Institute for Educational Research and Improvement. A third approach considered in committee discussions was to reorganize the functions of the various agencies and programs transferred into several functional and distinct units within a new Institute for Educational Research and Improvement—a concept of "institutes" within a larger national institute.

However, rather than reorganize specific units at this time, the committee decided to transfer several programs intact to a new Office for Educational Research and Improvement in the Department. Section 212 establishes this Office which shall be administered by the Assistant Secretary for Educational Research and Improvement, who shall be compensated at level IV of the executive salary schedule. The functions of the Fund for the Improvement of Postsecondary Education, Federal grants for nonbroadcast telecommunications demonstration, and programs transferred from the Director of the National Science Foundation are specifically delegated to the Office of the Assistant Secretary for Educational Research and Improvement. Although the committee did not explicitly transfer the National Institute of Education or its functions to this Office, it assumes that most or all of the functions currently in the NIE do belong with other related research and improvement activities in the new Office. The Secretary may delegate such additional research and improvement duties and powers to the Assistant Secretary as are deemed appropriate.

As noted, this committee expects the Human Resources Committee to direct its attention to the reorganization of educational research and improvement functions when hearings to extend FIPSE, NIE, science education, and telecommunications program authorizations are held next year. At that time the possible relationships between the programs transferred by this legislation to the Office for Educational Research

and Improvement and the overall mission of the Office for Educational Research and Improvement can be considered further.

The committee has also been made aware of the special concerns of many higher education and academic groups in wanting to preserve the integrity and quality of programs supported by the Fund for the Improvement of Postsecondary Education and by the Science Education Directorate. Clearly these programs are different from, though complementary to, those innovation-type programs funded by USOE and NIE. The needs of these programs, which are aimed mostly at improving undergraduate education, should be taken into account, and we expect the Secretary and the Assistant Secretary to work with appropriate authorizing committees and subcommittees to subsequently give these and other research and improvement programs more explicit guidance with respect to structure and function.

Criteria for assigning research and improvement functions

The bill provides authority for the Secretary to assign and reassign existing programs among units of the new Department including the research and improvement unit. The committee does not, however, intend that all demonstration, development, and dissemination activities be assigned to the Office for Educational Research and Improvement. Operating program units should retain some capacity for data collection, evaluation, and dissemination of exemplary programs. Indeed, their present capabilities to carry out these functions should be strengthened.

The central distinguishing characteristic of the functions that would be performed by the Office of Research and Improvement is that—while they complement and contribute to the effectiveness of major service-support and formula-driven Federal programs—they are not directed by the informational needs of these activities and policies.

Peer review and competitive processes should guide the allocations of most research funds.

A sufficient number of career and short-term professionals involved in research and improvement activities should be recruited by the excepted service authorities in order to facilitate flexibility and attract the best qualified persons.

Greater emphasis should be placed on developing ways to improve the dissemination of the results of research and improvement activities.

The organizational structure of the Office of Educational Research and Improvement

As noted earlier, and as the assumptions just identified imply, the Office of Educational Research and Improvement will not encompass all activites relating to research, development, dissemination, demonstrations, evaluation, and policy analysis. It will, however, encompass a substantial proportion of these activities, particularly those that support the priorities of State, local, and private educational agencies and other organizations and individuals concerned with learning more about and improving the quality of American education.

Among the existing organizational units or functions that are specifically assigned or that might be included within the Office are:

All elements of the science education programs transferred to

the Department from the National Science Foundation (Assigned.)

The National Institute of Education.

The Fund for the Improvement of Postsecondary Education. (Assigned.)

The nonbroadcast telecommunications programs transferred by this bill from the Office of the Secretary of HEW to the Department. (Assigned.)

Those activities of NCES that involve longitudinal research or analysis on the condition and future of American education.

A capacity for policy-related research and evaluation studies assigned to the Office by the Congress or the Secretary.

Some existing demonstration and development programs aimed at supporting specific changes in cirriculum or science-related programs, for example, metric or environmental education.

Programs aimed at enhancing the capacity of educational institutions to change in directions they define, for example, title IV–C of ESEA, which supports innovation activities of State education agencies.

Telecommunications development activities currently scattered among numerous offices can be brought together in an effort to develop a more coherent Federal policy in this area.

Educational policy analysis studies and associated staff activities, which are also scattered among various offices and levels of the educational bureaucracy, can be brought together for the purpose of associating these tasks with the decisionmaking and planning processes.

The possibilities of improving the linkages and integration of numerous related, and sometimes overlapping program authorities are endless. The committee expects the Secretary and Assistant Secretary to develop a more cohesive framework for the myriad number of research and improvement programs.

Locating the science education programs now in NSF alongside those science-related programs currently in the Office provides an example of the potential opportunities the Office for ERI provides. The demonstration and faculty development programs in science education are consistent with and supportive of many of FIPSE's purposes. Science-related education programs currently administered by the Education Division equal in size those being transferred from the Science Education Directorate of the NSF. Improving linkages among this array of scientific programs will enrich the quality of Federal efforts to deal with the serious decline in student achievement in science and related fields.

Advisory and policy councils

Two programs transferred by the committee to the Office for Educational Research and Improvement currently have their own advisory councils: FIPSE and the science education programs transferred from NSF. The committee considered several alternatives for the reorganization of these advisory councils and the policy council, National Council for Educational Research (NCER), of the National Institute of Education.

One model considered was to have a policy council modeled after NCER for the entire Office of Educational Research and Improvement.

A second model recommended an advisory council for the entire Office of Educational Research and Improvement.[13] In both these cases, the committee considered the possibility of having subcouncils for the various programs within the Office, similar to those created under the authority of the National Science Board.

Although the committee ultimately decided it wise not to merge or change any of the existing councils, or create a new overall council for the Office, it expects the Secretary, in consultation with the Senate Human Resources Committee and the House Education and Labor Committee, to consider various alternative forms in which the functions performed by the current councils might be reorganized and strengthened.[14] The committee is convinced of the importance of "buffering" the basic and applied research functions of the Office, and suggests that this issue be considered within the context of the creation of the new Office and the Assistant Secretary position.

Concluding comments

The committee expects the Assistant Secretary for the ERI to support the policies and priorities specified in Sections 404 and 405 of the General Education Provisions Act, which relate to the Fund for the Improvement of Postsecondary Education and the National Institute of Education. Equal commitments are required for continuing R. & D. policies and activities relating to the science education programs being transferred by the bill from NSF.

The committee recognizes the need to give the Secretary of Education considerable discretion in organizing research and improvement programs in the Department, and in delegating specific programs and activities to the Office for Educational Research and Improvement. At the same time, the committee expects the Secretary to consider the committee's view of the role and activities of the Office for Research and Improvement. Moreover, in developing the character, structure and practices of the Office and in allocating research and improvement functions throughout the Department, the committee suggests the Secretary work closely with the Senate Human Resources Committee and the House Education and Labor Committee.

HEW—Special Institutions

There are presently four educationally oriented institutions over which the Department of Health, Education, and Welfare maintains budgetary oversight, and for which the Federal Government is the major source of revenue. Each of these "special institutions" have as their primary mission the education and assistance of special, handicapped, or disadvantaged constituencies.

The committee believes the transfer of the current relationship between these Special Institutions and the Federal Government to the

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[13] The draft bill considered by the committee in markup folded the functions of NIE into an Institute for Educational Research and Improvement, along with the FIPSE, science education, and telecommunications-demonstration functions. It also changed NCER's policy role to an advisory one. An amendment agreed to in committee by voice vote preserved the NIE intact, as well as the NCER and changed the proposed Institute for Educational Research and Improvement to an Office of Educational Research and Improvement. The NCER, then, would remain as a policymaking council, but only for NIE—authorized activities. This was done in order to allow the authorizing committees an opportunity to consider this question of additional reorganization further in the context of renewed authorizing legislation.

[14] Ibid.

Department of Education is a logical and wise move. The four institutions include:

American Printing House for the Blind, located in Louisville, Ky., was established by Congress to provide educational materials to elementary and secondary school-age blind students.

National Technical Institute for the Deaf, located in Rochester, N.Y., provides residential, coeducational post secondary technical education for the deaf.

Gallaudet College, in Washington, an educational institution providing college preparatory, undergraduate and continuing education programs for the deaf. Gallaudet also includes the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School.

Howard University, in Washington, a private nonprofit undergraduate college, graduate school and medical facility emphasizing the training of minorities in technical and professional fields.

The committee is impressed with the successes of these institutions, and recommends their association with the Federal Government continue. The missions of these four institutions will follow closely that of the Department of Education.

In the past, all four institutions agree HEW has allowed them maximum flexibility in determining their programs and content of curricula, and in experimenting with new, innovative ideas in their special educational missions. The committee strongly believes such a high degree of independence and autonomy must continue in the Department of Education.

While the responsibility for oversight of these institutions is statutorily vested in the Office of the Secretary, the committee suggests the Secretary should consider the possibility of coordinating the functions of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with those of the Office of Special Education and Rehabilitative Services in the new Department. Oversight for Howard University should be coordinated with and linked to the Office of Postsecondary Education.

USDA GRADUATE SCHOOL

The committee recommends the transfer of the USDA Graduate School to the new Department.

The Graduate School was created in 1921 and it has evolved over the years into a first-rate continuing education program benefiting nearly 30,000 employees of the Department of Agriculture, employees of other Federal agencies, and other citizens living in the Washington metropolitan area. The school receives no Federal appropriations, and its staff is not subject to civil service guidelines. The school does not exist for any purpose integrally related to the mission of the USDA. In fact, most of its students are employees of other Federal agencies, or are members of the general public. The committee believes the central purpose and goal of the Graduate School relates closely to that of the Department of Education. The new Department will be very much concerned with adult and continuing education, which is the primary rationale for the Graduate School. Further, the school will develop a more professional image by its association with an education

agency, rather than an agricultural agency. The school's ties to USDA have been the source of much confusion over what it really does and what it accomplishes.

The committee expects the Secretaries of Education and Agriculture to develop a plan and set of procedures, with concurrence of the Director and Board of Trustees of the school, for transferring the administrative offices to the Department of Education. Appropriate facilities should be made available which assure that the Graduate School continues and flourishes as a nonaccrediting and continuing educational institution.

The Graduate School should remain independent and not subject to any statutory or administrative responsibilities established by this act. In no such manner should the Secretary of Education, or any other official of the Federal Government, attempt to exercise any direct influence over the curriculum, program of instruction, administration, or personnel of the Graduate School. That should remain the primary responsibility of the school's board of trustees.

The Committee assumes that the Department and its education programs will require substantial library, classroom, demonstration and audiovisual facilities, and that these facilities can be shared and utilized by the participants, faculty and students of the Graduate School.

The committee intends that the transfer of the Graduate School will not terminate or lessen educational services provided by the Graduate School to the Department of Agriculture and its employees. Nor should the change in administrative locations alter the special relationships which the Graduate School currently maintains with other Federal agencies, offices and private institutions throughout the Washington area.

Moreover, the Graduate School should continue to be maintained as an independent, nongovernmental institution and, other than indirect services accorded to its administrators and program operations, no federally appropriate funds should be used to support the ongoing operation of the Graduate School functions.

The Graduate School should also retain the prerogative to operate in its present format and under existing policies, or to sever its current physical ties with federal agencies and, thus, become a more independent, self-sufficient and autonomous educational institution. Such alterations of policies influencing or governing future directions of the Graduate School should be totally within the jurisdiction of its director, deputy director and board of trustees. This transfer should not, in any way, affect the school's by-laws or rules and regulations.

The committee believes the transfer of the Graduate School to the Department of Education will have a beneficial impact on both institutions. The committee fully expects the Graduate School will continue to expand and prosper under the new Department.

Committee Action

The Governmental Affairs Committee held 10 days of hearings on S. 991 during which 100 witnesses testified. The committee also held three markup sessions on July 11, 14, and 18, 1978. The bill was reported favorably by the twelve members present on July 18, with an additional three Senators voting in favor by proxy.

HEAD START

On July 11, the committee unanimously decided to delete the proposed transfer of the Head Start program from HEW to the Department of Education. On July 14 an amendment introduced on June 15 by Senator Heinz and cosponsored by Senators Javits, Percy, and Glenn pertaining to the deletion of the Head Start program was adopted in its entirety by voice vote in order to clarify the committee action on July 11. Senator Danforth was added as a cosponsor to the amendment at this time. This amendment deleted the establishment of the Office of Child Development, which would have administered the Head Start program. Its language also provided assurances that there is no other provision in the Act, relating to authority for other transfers from the Department of Health, Education and Welfare, that would provide for the transfer of Head Start.

In the committee's discussion of this amendment, it was felt that it would be inappropriate to include the Head Start program in the Department of Education. The committee recognized that Head Start provides comprehensive services including health, nutrition, education, dental, mental health, parental involvement and social services. The outstanding success of this program can be partially attributed to Head Start's unique characteristics—significant parental involvement, comprehensive services and a diverse Federal-to-local delivery system. Because it has been successful in all these program components in its present organizational location and because these services are comprehensive in nature, it was felt that its present organizational location within the Office of Human Development Services of HEW was an appropriate location for the program. The committee recommends that Head Start, thus, be maintained in its present location within the Administration for Children, Youth and Families (ACYF) and not be placed in any organizational structure where the program would be administered by State education- or welfare-oriented agencies. The unique characteristics mentioned above should be maintained and strengthened. The committee recommends that those officials in the program work closely with the Department of Education officials so that the successful Head Start model can be a guide for many of the programs in the new Department.

VOCATIONAL REHABILITATION

On July 11, the committee considered an amendment proposed by Senator Humphrey to transfer vocational rehabilitation programs from HEW to the Department of Education and to create an Office and Assistant Secretary for Special Education and Rehabilitative Services. It was passed by voice vote without objection. On July 14, the committee also approved by voice vote a clarifying amendment introduced by Senator Chiles to insure that placement of vocational rehabilitation services in a Federal education agency would not mandate similar placement at the State level.

The Humphrey amendment transfers to the Secretary the functions being administered by the Commissioner of Rehabilitation Services Administration under the Rehabilitation Act of 1973.

In addition, Senator Ribicoff introduced amendments requested by Senator Randolph to clarify the intent of the Humphrey amendment. The purpose was to ensure that the Randolph-Sheppard vending facility program and the Office of Handicapped Individuals were transferred to the Office of Special Education and Rehabilitative Services. It was clarified that it was not the intention of the Humphrey amendment to transfer Vocational Rehabilitation Services for Supplemental Security Income Beneficiaries or Vocational Rehabilitation Services for Social Security Disability Beneficiaries. The committee adopted these amendments by voice vote on July 27.

INDIAN EDUCATION

Senator Stevens introduced an amendment to delete the proposed transfer of Indian education programs from the BIA to the Department of Education. The committee voted to defeat the amendment by a rollcall vote of 3 yeas—7 nays.

Child Nutrition Programs

On July 14, Senator Percy offered an amendment to delete the proposed transfer of the child nutrition programs form USDA to the Department of Education. The amendment was defeated by a rollcall vote of 8 yeas–8 nays. [Senator Danforth requested by unanimous consent that his vote be recorded in the official record as in favor of the Percy amendment.] During the discussion of this transfer, Senator Ribicoff introduced a compromise amendment on behalf of the administration which retains the responsibility for commodity funding in the Department of Agriculture. The compromise amendment was approved by voice vote.

Intergovernmental relations

On July 18, the committee adopted a series of amendments proposed by Senators Roth and Danforth to strengthen provisions ensuring the rights of State and local governments concerning their direction over schools. The Roth-Danforth amendments also change the membership of the Intergovernmental Advisory Council on Education by providing that the President shall consult with such organizations as the National Governors Conference, National Association of Counties, the League of Cities, and the U.S. Conference of Mayors in the selection of members. The intent of the Roth-Danforth amendments is to ensure that the new Department will not try to preempt the local decision-making process and assume new powers that might infringe upon the powers of the local school boards. The committee stressed the importance of the consultation with and recommendations of the various groups involved in educational matters.

Human Resources Committee amendments

During the committee's consideration of the bill, in markup, it was agreed that the Human Resources Committee would have an additional 2-weeks to submit any amendments to the Governmental Affairs Committee. These amendments would be submitted to the Committee by Senator Javits, ranking minority member of the Human Resources Committee and also a member of the Governmental Affairs Committee. On July 27, three additional amendments were introduced by Senator

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Javits on behalf of the Human Resources Committee. The first amendment deletes section 403 of the bill which authorizes the Secretary to establish, combine, or terminate advisory committees.

Section 403 provided authorization for the Secretary to establish, combine, or terminate such advisory committees as he or she deemed appropriate to carry out the functions of the Secretary or the Department. The deletion of this section would provide that provisions of the Federal Advisory Committee Act and section 448 of the General Education Provisions Act be maintained, where applicable.

Senator Percy expressed concern that some consideration be given to the proliferation of advisory committees. Senator Javits agreed to discuss this concern with Senators Pell and Williams for possible floor consideration of amendment with respect to advisory committees.

The second amendment was concerned with Section 413 which provides authority for the Secretary to allocate or reallocate functions among officers of the Department and to establish, consolidate, alter or discontinue organization entities within the Department. Section 413 was revised to specifically prohibit the reallocation of any office, bureau, unit or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity unless it is in respect to specific entities specified in section 413. If the Secretary wishes to reallocate fuactions or consolidate, alter or discontinue such entities, the Secretary must notify the Senate Human Resources and the House Education and Labor Committees not less than 90 days before the proposed action. The notification must include a complete statement of the action proposed to be taken.

This amendment insures that the reorganization authority provided the President with respect to reorganization of Departments is preserved as well as statutory obligations established by Congress; however, the section provides the Secretary specific limited flexibility with respect to certain offices previously within the Education Division of HEW and now transferred to Department of Education.

The third amendment further defines the planning and evaluation functions of the Department by including the development of policies to promote the efficient and coordinated administration of the Department and its programs. The amendment requires that the officer performing these functions be one of the level IV assistant secretary positions established by the bill. In addition, Section 427 would require the Secretary to also discuss in the Annual Report anticipated future progress of the Department towards the attainment of the stated findings and purposes in the bill. In the preparation of the report, the Secretary would consult with the public and hold hearings on the report after its submission to Congress.

The committee approved these amendments by voice vote.

FINAL ACTION

Senators Percy, Roth, Glenn, and Mathias were added as cosponsors of the legislation. The committee voted unanimously to report the bill favorably on July 18, agreeing to reconvene for reconsideration after the Human Resources Committee submitted its amendments. On July 27, the committee adopted by voice vote the amendments offered by Senator Javits on behalf of the Human Resources Committee.

ROLLCALL VOTES IN COMMITTEE

Rollcall votes taken during committee consideration of this legislation are as follows:

July 11, 1978

Vote on Stevens amendment to delete the proposed transfer of BIA education programs: 3 yeas—7 nays.

YEAS	NAYS
Humphrey	Nunn
Stevens	Sasser
Chiles	Percy
Jackson [1]	Danforth
	Ribicoff
	Javits
	(Proxy):
	Muskie

July 14, 1978

Vote on Percy amendment to delete the proposed transfer of child nutrition programs: 8 yeas—8 nays.

YEAS	NAYS
Chiles	Ribicoff
Nunn	Javits
Percy	Heinz
Danforth [2]	(Proxy):
(Proxy):	Muskie
Jackson	Glenn
Eagleton	Sasser
Humphrey	Stevens
Roth	Mathias

July 18, 1978

Final passage: Ordered reported: [3] 12 yeas—0 nays.

YEAS	NAYS
Eagleton	
Chiles	
Sasser	
Nunn	
Humphrey	
Percy	
Javits	
Roth	
Danforth	
Heinz	
Ribicoff	
Glenn	
(Proxy)	
Jackson	
Muskie	

[1] Senator Jackson requested to be recorded as voting yea.
[2] By unanimous consent, Senator Danforth was recorded as voting yea.
[3] Committee rules provide that on "Final Passage" proxies may be allowed solely for the purpose of recording a member's position on the pending question.

Those in attendance during voice vote on Javits amendments:

Muskie
Eagleton
Chiles
Sasser
Percy
Javits
Danforth
Heinz
Ribicoff

SECTION-BY-SECTION ANALYSIS OF S. 991

TITLE I—GENERAL PROVISIONS

Section 101. Statement of Findings

Section 101 sets forth the findings of the Congress that (1) education is fundamental to the growth and achievement of the Nation; (2) there is a continual need to provide equal access by all Americans, especially the disadvantaged and handicapped, to high quality educational opportunities; (3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local and tribal governmental, public and nonpublic educational institutions, communities and families; (4) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative and often inconsistent Federal policies relating to education; (5) there is ineffective management of existing Federal resources for State, local, and tribal governments and public and nonpublic educational institutions; (6) there is substantial evidence that the quality of education and the development of basic skills are not keeping pace with current demands; (7) the current structure of the executive branch of the Government fails to recognize the importance of education and does not allow for sufficient Presidential and public consideration of issues relating to education; and (8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and it is in the public interest and will promote the general welfare of the United States to establish a Department of Education.

Section 102. Purposes

Section 102 states the purposes of the Department in order to (1) insure that education receives the appropriate emphasis at the Federal level; (2) enable the Federal Government to more effectively coordinate education activities and programs; (3) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities; (4) supplement and complement the

efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs; (5) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education; (6) promote the quality and relevance of education to individual needs; (7) broaden approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, students, communities, the workplace, and other related institutions; (8)(A) provide leadership in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents and students to implement the findings of such research at the local level; (9) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork on the recipients of Federal funds; and (10) assess the potential contribution of educational institutions, toward the improvement of education by creating mechanisms for them to bring problems to the attention of appropriate departments and agencies and make recommendations to foster their continuing vitality.

Subsection (b) states it is the intention of the Congress in creating the Department to protect the rights of State, local and tribal governments, and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

Section 103. Definitions

This section defines terms used in the Act. Such terms include Department; Secretary; Under Secretary; Assistant Secretary; Director (Director of the Office for Civil Rights); Administrator (Administrator of the Office of Education for Overseas Dependent Children); Council (Intergovernmental Advisory Council on Education); Committee (Federal Interagency Committee on Education); and function.

TITLE II—ESTABLISHMENT OF DEPARTMENT

Section 201. Department of Education

Section 201 establishes as an executive department of the Government, the Department of Education.

Section 202. Principal Officers

Section 202 provides for the establishment of the Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the executive schedule contained in section 5312 of title 5, United States Code. Also established is the position of an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the executive schedule.

The section states the Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of the Secretary and/or Under Secretary.

The section establishes 14 other principal officers of the Department: an Assistant Secretary for Special Education and Rehabilitative Services; for Indian Education; for Child Nutrition; for Elementary and Secondary Education; for Postsecondary Education; for Occupational, Adult, and Community Education; for Educational Research and Improvement; a Director of the Office for Civil Rights; two additional Assistant Secretaries; an Inspector General; and a General Counsel. Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. Each of these officers shall perform such duties and exercise such powers as the Secretary shall prescribe, and shall report directly to the Secretary. Each shall be compensated at the rate provided for level IV of the executive schedule.

The section provides that the Assistant Secretary for Indian Education shall be appointed by the President, by and with the advice and consent of the Senate, from among lists of candidates submitted by tribes or other organizations of Indians, Alaskan Natives, and Aleuts. It is the committee's belief that Indian tribes, Alaskan Natives, and Aleuts must be involved in the selection of this officer. The committee believes the Assistant Secretary for Indian Education should be of American Indian, Alaskan Native, or Aleut origin. The President should make a comprehensive effort to find a qualified individual, who is well versed in the special and unique needs of Indian students, and who has a demonstrated record of experience in improving the education of Indian people.

The section also states that one of the Assistant Secretaries shall administer the intergovernmental functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. It was felt that the assignment of Federal-State-local relations functions should be performed by a senior departmental official at executive level IV. This individual would be a high-level position to insure a State perspective on a continuing basis in all departmental affairs.

Also, one of the Assistant Secretaries shall administer the functions under section 203(13) for planning, evaluation, and policies of the De-

partment. This will insure a high-level officer is specifically responsible for the efficient and coordinated administration of the Department and its programs and will encourage improvement in education.

The section also provides for an Administrator of Education for Overseas Dependent Children. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the executive schedule contained in section 5316 of title 5, United States Code.

One additional officer is provided for who shall perform such duties and exercise such powers as the Secretary may prescribe. This officer shall be compensated at the rate provided for level V of the executive schedule contained in section 5316 of title 5, United States Code.

The section states that whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c), (d), and (f), the President shall state the particular functions of the Department such individual will exercise upon taking office. This provision is not meant to prohibit the Secretary from reassigning duties and functions or from changing such duties or functions of the officer at a later time if it is necessary to do so for the efficient operation or functioning of the Department.

Section 203. Functions of the Department

Section 203 outlines the functions of the Department. It states the function of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—(1) administration of programs pertaining to elementary and secondary education including the administration of the follow-through program; (2) administration of programs pertaining to post-secondary education; (3) administration of programs pertaining to occupational, adult, and community education; (4) administration of education grants and other programs for which the Department has responsibility under law; (5) administration of child nutrition programs; (6) administration of programs relating to special education and rehabilitative services; (7) administration of programs for education of Indians, Alaskan Natives, and Aleuts, and fulfillment of the obligations of the Government relating to education of such individuals; (8) administration of schools for the overseas dependent children of personnel of the Department of Defense; (9) enforcement of the civil rights laws relating to education; (10) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics; (11) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs; (12) public information; (13) planning for and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and its programs and to

encourage improvement in education; (14) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress; (15) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and (16) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and public in the development and implementation of departmental programs.

Section 204. Office for Civil Rights

Section 204 establishes an Office for Civil Rights to be administered by a Director. In light of the high importance the committee attributes to civil rights enforcement in education, the bill provided in section 202 that the Director shall be an executive level IV, appointed by the President with the advice and consent of the Senate, who reports directly to the Secretary. The committee recommends that the Director be accorded the title Assistant Secretary for Civil Rights to reflect the visibility and stature his or her activities should have within the Department. The Secretary shall delegate to the Director all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred to the Secretary (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

The Office for Civil Rights (OCR) shall be the agency within the Department with the authority to exercise sanctions if any agency in the Department funds recipients who violate non-discrimination provisions. The committee intends that this Office have the resources and authority necessary to do its job.

This responsibility, however, does not diminish the Secretary's responsibility as the chief policy official of the Department, who must be responsible for civil rights compliance and enforcement.

Section 204 provides that the Secretary shall delegate all civil rights compliance and enforcement functions (other than administrative and support functions) to the Office for Civil Rights. This provision was included to make certain that civil rights enforcement responsibilities are not delegated by the Secretary to any official in the Department other than the OCR Director. Civil rights responsibilities are law enforcement responsibilities, and program units within the Department cannot be expected to impose legal sanctions on themselves. This is not to be construed as barring; and in fact, the committee intends to encourage every agency within the Department to consider civil rights criteria in the awarding and monitoring of grants, contracts or other Federal funds. A strong, adequately staffed Office for Civil Rights, with complete authority from the Secretary, can insure that all civil rights laws are enforced in all program units of the new Department.

This prohibition against the Secretary delegating authority to enforce civil rights laws to offices other than the OCR is not intended to limit the Secretary's ability to utilize staff who work in other offices both inside or outside the Department for other functions such as preaward audits or postgrant monitoring. Clearly, such staff might

provide specific expertise necessary to help carry out or lend support to civil rights enforcement activities. However, under section 204(a), such staff must be responsible solely to the OCR Director if they are to assume any of the Secretary's responsibilities for employing sanctions for noncompliance.

Section 204(b) requires the Assistant Secretary for Civil Rights each year to prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with civil rights laws relating to education. In addition to this status report, the report shall include a statement concerning the OCR's plans and recommendations to insure improved enforcement of and continued compliance with civil rights laws related to education. The committee anticipates that this report will identify significant problems of compliance or enforcement which may require oversight by appropriate congressional committees and a description of the specific enforcement activities indicated by OCR during the previous year.

The annual report shall be submitted directly and independently by the Director to the President, the Secretary, and the Congress without clearance or approval by any executive branch official. The committee views this report as a mechanism to obtain a precise, objective statement of the status of and future plans for civil rights enforcement in education. The Congress must have an independent annual report on civil rights activities that is free from potential programmatic and practical pressures that may be brought to bear on a Secretary in order to determine if the laws of the Nation are being implemented. A direct, unedited report from the Director will provide this independent view. The Director should, however, insofar as feasible, provide a copy of the report sufficiently in advance of its submission to the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to it when transmitted to Congress by the Director.

Section 205. Office of Elementary and Secondary Education

Section 205 establishes in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education. In addition, the Assistant Secretary for Elementary and Secondary Education shall perform such other duties and exercise such powers as the Secretary may prescribe.

Section 206. Office of Postsecondary Education

Section 206 establishes in the Department an Office of Postsecondary Education. The Office shall be administered by the Assistant Secretary for Postsecondary Education. The Office would assure that the needs and concerns of postsecondary institutions are represented. The Office will develop and coordinate policies and programs designed to improve postsecondary educational opportunities. Policies and procedures that recognize changing characteristics in postsecondary education should be initiated. The Assistant Secretary should advise the Secretary and Congress of these trends and also direct, coordinate, and implement departmental policies with respect to postsecondary student assistance, institutions and community colleges, and provide institutional support.

The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

Section 207. Office of Occupational, Adult, and Community Education

Section 207 establishes an Office of Occupational, Adult, and Community Education, to be administered by an Assistant Secretary for Occupational, Adult, and Community Education. This Office will be responsible for administering those programs relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. Because of the creation of this new office, the committee expects the functions and duties previously performed by the Bureau of Occupational and Adult Education to be performed by the new Office.

The Assistant Secretary shall also perform such additional duties and exercise such powers as the Secretary may prescribe.

Section 208. Office of Special Education and Rehabilitative Services

This section establishes within the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services.

This Office will contain the programs administered by the Rehabilitation Services Administration (RSA), with the exception of vocational rehabilitation services for social security disability beneficiaries and vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disability programs. In addition, the Office will administer the programs previously administered by the Bureau of Education for the Handicapped (BEH); and the Office for Handicapped Individuals (OHI). All of these entities are presently located in HEW and their functions are transferred to the Department.

It is the intention of the committee to create a comprehensive office of consolidated programs for the education of the handicapped. The committee believes this will initiate the development of an effective policy for the education of the handicapped that will aid handicapped individuals from birth through adulthood. The goal of this Office should be to increase the ability of handicapped individuals to adapt to society.

The committee intends, through the creation of this Office and Assistant Secretary, to make special education and rehabilitative services a high priority in the Department of Education. The Assistant Secretary should make strong efforts to coordinate his or her activities with those of the Department. Also, the creation of this Office will provide the Assistant Secretary an opportunity to efficiently coordinate the programs which were administered by RSA with those which were administered by BEH.

It is the committee's expectation that the Assistant Secretary will be a strong advocate for the furtherance of the goal of increasing the ability of handicapped individuals to adapt to society.

Athough the committee strongly believes vocational rehabilitation programs are educationally focused and should be included within

the Department of Education at the Federal level, it is not the intention of section 208 to change any existing organizational structural requirements for vocational rehabilitation program at the State level; thus the enactment of this section does not specifically mandate any particular organizational structure of the programs at the State level with respect to the transfer.

Section 209. Office of Child Nutrition

This section establishes an Office of Child Nutrition, to be headed by an Assistant Secretary for Child Nutrition. The Office will administer all functions transferred to the Secretary from the Department of Agriculture relating to the National School Lunch Act and the Child Nutrition Act.

The committee intends, through the creation of this Office and Assistant Secretary, to make child nutrition a high priority in the Department of Education. The Assistant Secretary should make strong efforts to coordinate his or her activities with those of the Department. The committee believes the Assistant Secretary should be a strong advocate for better nutrition in the Federal Government, and in the nation's schools.

The committee intends that all functions transferred under section 302 be delegated to the Assistant Secretary for Child Nutrition, except for the oversight of the graduate school and administrative and support functions.

Section 210. Office of Education for Overseas Dependent Children

This section establishes an Office of Education for Overseas Dependent Children, to be administered by the Administrator for Education for Overseas Dependent Children.

The Administrator would carry out the functions transferred to the Secretary from the Departmen of Defense relating to the Office of Dependents Schools of the Department of Defense and to the operation of schools for dependent children of members of the Armed Forces (other than administrative and support functions).

The committee expects the Secretary will make available to the Office and the Administrator other resources in the Department for the improvement of the Dependents Schools, including child nutrition programs, vocational education programs, education of the handicapped services, and other programs for the improvement of academic facilities and personnel.

Section 211. Office of Indian Education

This section establishes the Office of Indian Education, to be administered by the Assistant Secretary for Indian Education.

The Secretary is required to delegate to the Assistant Secretary all functions transferred to the Department relating to education in the Bureau of Indian Affairs. Also, the Assistant Secretary will administer the functions of the existing Office of Indian Education and the Office of the Deputy Commissioner of Education for Indian Education in the U.S. Office of Education in HEW. Although this section requires the delegation of all Indian education functions transferred under this act to the Assistant Secretary except for administrative and support functions, the committee intends that these support func-

tions include only those which provide for immediate facilities and support services relating to the Office of Indian Education itself, not those relating to the operation of Indian schools in the field (which the committee intends should be transferred to the Office).

This section specifically provides that the transfer of functions will not modify or eliminate any eligibility requirements or standards in effect before the transfer. The definition of an "Indian" differs considerably between HEW and the BIA. The committee intends that where Indian education programs and services presently serve only those tribes granted recognition by the Federal Government, they shall continue to serve those Indian people. For those programs authorized under the Indian Education Act, where a broader definition of "Indian" is used, that statutory definition shall continue to exist. The committee believes there is a strong need to tighten the latter definition. But such action can be taken only after the most careful study and with extensive consultation with Indians, Alaskan Natives, and Aleuts. The Assistant Secretary should go to great lengths to insure these two eligibility requirements and standards are continued in the Office. The committee expects the administration of the BIA transferred services and the OE transferred programs will remain distinct and separate under the Assistant Secretary until such time as Congress provides otherwise. The problem of varying definitions of an "Indian" is one that should be thoroughly examined, and remedied in the near future.

The committee expects the Department of Education will not violate the trust responsibility of the U.S. Government for Indians, Alaskan Natives, and Aleuts. The committee views this provision as being of paramount importance in both the creation of the Department and the new Office of Indian Education. The trust responsibility stems directly from the Federal Government's agreements and treaties signed with Indian tribes. The Department of Education, under this section, is ordered by Congress to strictly adhere to the trust responsibility. The Department, the Assistant Secretary, and the Office of Indian Education are legally and morally bound and obligated to meet the special and unique needs of Indians, Alaskan Natives, and Aleuts. The committee intends that the transfer of the BIA education functions and their consolidation in the new Office of Indian Education will not in any way threaten the trust responsibility and will improve Indian education.

This section also mandates coordination and consultation between the Assistant Secretary for Indian Education and the Assistant Secretary in the Department of the Interior who has responsibility for Indian Affairs. The committee believes close and strong cooperation between these two top Federal Indian officials is imperative. There will be instances where some of the educational facilities under the purview of the Department of Education will require light support services, such as the maintenance of a road on a reservation to a school.

The committee intends that there be developed a viable working relationship between the two Assistant Secretaries to rapidly eliminate any logistical concerns that might arise. The Assistant Secretary for Indian Affairs will be expected to do everything in his or her power to assist in the provision of educational services to Indian people, and to insure that the transfer of functions from the BIA be carried out with diligence and efficiency.

The Assistant Secretary for Indian Education is also mandated to increase the level of local control of Indian education by Indian people. The committee intends that this doctrine be the pervasive philosophy of the new Department and the Office of Indian Education. It is extremely important that Indian people assume more control, operation, input, and self-determination over the schools that serve their children. In this regard, the Assistant Secretary should make strong efforts to encourage more contracting under the Indian Self-Determination and Education Assistance Act. Funding arrangements for all programs and services of the Office should be made as much as possible directly between the Office and the tribes or Indian organizations. The committee does not approve of Indian education funds administered by the Office being channeled through State education agencies because the Federal Government has a direct relationship with Indian tribes.

The committee understands that some programs benefitting Indians should be administered outside the Office of Indian Education. For example, the ESEA title I funds that support Indian education are properly administered by the Assistant Secretary for Elementary and Secondary Education. However, the Assistant Secretary for Indian Education has an important role to play in helping to shape those programs outside his immediate domain so as to be more appropriate to Indian needs.

Last, this section provides for the transmittal to Congress every 3 years of a comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts. The committee believes such a plan will be an important function of the Office and the Assistant Secretary. The primary purpose of the consolidation of Indian education functions under this legislation is to facilitate the development of a comprehensive Federal strategy for Indian education—long a victim of neglect. The committee expects such a plan will be developed with extensive consultation with Indian tribes and organizations. Such plan should also include an analysis of the progress of Indian education, and include recommendations for the improvement of Indian education.

Section 212. Office of Educational Research and Improvement

Section 212 establishes an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement. The section states that the Secretary shall delegate to this Assistant Secretary all functions relating to the fund for the improvement of postsecondary education, those functions transferred which relate to Federal grants for telecommunications demonstrations; and the science education functions transferred intact from the National Science Foundation.

In establishing this Office, the committee recognizes the important role of the Federal Government in assisting research and development activities which are designed to improve education, public understanding, and the capacities of educational institutions. This Office will integrate and coordinate the wide range of research, development, and demonstration programs.

The programs proposed for inclusion in the new Office are included because their overall missions fit into and would complement the new Office. Although this section does not specifically place the National Institute of Education into this Office, the committee feels this place-

ment is appropriate. It recommends that the authorizing committees, in conjunction with reauthorizing legislation for the fund for the improvement of postsecondary education and the National Institutes of Education, consider the renewal for these programs within an organization and decisionmaking framework which will ultimately enhance the research role for the Department.

Additionally, the Assistant Secretary shall perform such other duties as the Secretary may prescribe.

Section 213. Office of Inspector General

Section 213 establishes in the Department an Office of Inspector General, to be administered by the Inspector General appointed under section 202(c).

The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Secretary which are now vested in the Inspector General of HEW. In addition, the Inspector General will have this same authority with respect to the functions of the Secretary or of the Department, or of any officer or component thereof which are transferred to the Department.

This section insures that the Inspector General for the Department will have the same authority as that now vested in the Inspector General of the Department of Health, Education, and Welfare. To insure that the Inspector General possesses the same independence that is now vested in HEW's Inspector General, the section provides that the Inspector General shall be appointed and removed in the same manner, and have the same status as the HEW Inspector General. Thus, the Inspector General would be appointed by the President and removed solely by the President.

It is the committee's intent that the Inspector General f ıction be a strong component in the new Department. Since this Department will spend more than $17 billion in Federal moneys, it is the committee's view that the Inspector General's office actively and thoroughly investigate any abuses or mismanagement of funds.

Also, at the present time, the House of Representatives has passed a bill providing for an Inspector General in various other Federal departments. The Senate Governmental Affairs Committee has ordered reported a similar bill. The committee recommends that if the Inspector General bill is enacted, this bill be conformed to the new statute.

Section 214. Office of General Counsel

This section establishes an Office of General Counsel, to be administered by the General Counsel.

The General Counsel shall perform necessary duties with respect to legal assistance to the Secretary concerning the programs and policies of the Department and any other additional duties the Secretary feels are appropriate for this Office.

Section 215. Intergovernental Advisory Council on Education

Section 215 establishes within the Department an Intergovernmental Advisory Council on Education. The purpose of the Council is to conduct studies and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

The functions of the Council are to provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions.

The Council is also required to submit a report every 2 years to Congress, the President, and the Secretary which reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions, and assess the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions.

The Council would assist the Secretary in conducting conferences and similar activities to assess the contributions of each level of government to the delivery of equitable, high-quality, and effective education.

The Council's membership shall be composed of 22 members, appointed by the President. Not more than 11 of the members of the Council may be members of the same political party. Six members would be chosen from elected State, local, and tribal officials; six members would be selected from the public, including parents, students, and public interest groups; five members would be from among representatives of public and nonpublic preschool, elementary, and secondary educational institutions, including school board members, administrators, and teachers; and five members would be chosen from among representatives of public and nonpublic postsecondary educational institutions, including board members, administrators, and teachers.

In making appointments to the Council, the President shall consult with representatives of state and local governmental authorities who do have a direct responsibility in education policy decisions at the State and local levels. Such groups would include the National Governor's Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors. This consultation is not limited, however, to the organizations specified. It is the committee's view that the President should also consult with other groups which are representatives of the membership selected to the Council. Such organizations would include educational organizations, citizens' public interest groups, including civil rights groups, tribal organizations and student groups. The committee feels this consultation is important in order to insure the type of broad-based representation on the Council which is necessary to carry out its stated objectives in bringing the opinions and ideas of those persons involved in the educational process to the attention of the Department.

Members appointed to the Council would be appointed for four year terms and would have a bipartisan representation. Not more than 11 members appointed to the Council would be from the same political party.

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If such a member appointed to the Council is an elected official, the member may serve on the Council to the expiration of his or her appointment to the Council.

If the Council wishes, it may review rules or regulations proposed by the Department concerning Federal education programs. The purpose of the Council's review would be to determine the impact of rules or regulations on State, local and tribal governments, and public and nonpublic educational institutions. The review of the regulations would have to be conducted in accordance with the specified time allowed for public comment on the rules or regulations, as specified according to the Department's procedures. In conjunction with this provision, the Council may establish a subcommittee for the purposes of the review. The Council may receive and consider comments by affected parties on the proposed rules or regulations.

The Council may submit a report containing the results of its review to the Secretary within the time established for public comment. The Council's review would be placed on the public record. If such a report is submitted to the Secretary, the Secretary would be required to submit a written public response which addresses the Council's recommendations and contains a statement of the reasons why the Secretary will or will not incorporate the recommendations in the rule or regulation.

The Council's review should be limited to those rules or regulations the Council feels significantly impact upon intergovernmental relations to such an extent that they warrant special attention by the Council.

The section prescribes that the per diem paid to the Council members will be the equivalent of the daily rate for a GS–18.

The Council is authorized to hold hearings and request the attendance and testimony of witnesses, as well as the cooperation and assistance of other Federal departments, agencies, and instrumentalities.

The Secretary would be required to appoint an executive director to be compensated at the rate provided for a GS–17. The Secretary should seek the approval of the Council in making the choice of the executive director. In addition, the Secretary is required to provide the Council with additional staff, facilities, and assistance as needed to carry out the Council's activities.

Section 216. Federal Interagency Committee on Education

This section establishes the Federal Interagency Committee on Education to conduct studies and make recommendations in order to assure the effective coordination of Federal programs affecting education.

The committee would be composed of at least 17 members. In order to provide more opportunity for greater coordination, the Secretary could expand this number to include other agencies involved in other education-related programs. One member would be the Secretary, who would be the chairman of the committee. Sixteen members would be representatives of the following departments and agencies: Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Justice, Department of Health and Welfare, Department of the Interior, Department of Labor, Department of State, National Aeronautics and Space Admin-

istration, National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation, Veterans Administration, Commission on Civil Rights, and Environmental Protection Agency.

The committee believes the coordination of Federal education programs outside the Department with those inside will be a critically important function of the Department and the Secretary. One of the basic reasons for the creation of the Department of Education is to improve coordination of education at the Federal level.

FICE should become a viable, active tool of the Secretary in eliminating duplication of effort between the Department and other Federal agencies. The committee fully expects the Secretary will take an active role in the operation and work of FICE. That is the purpose of naming the Secretary of Education as the chairperson. FICE should be an important mechanism for the conduct of comprehensive studies on the Federal role in education, and where the effort can be streamlined.

The committee further expects the agencies designated to be represented on FICE in the legislation will also take active roles in improving coordination and performance of their education programs. The committee has specifically required these agencies to appoint senior officials involved in policymaking functions to represent them on FICE. FICE will be effective only as long as it has as members individuals who hold significant policy and decisionmaking authority.

Although the bill requires FICE to meet at least twice each year, the committee expects the Secretary will utilize FICE more often, especially in the first 3 years of the life of the new Department, when relationships among the many Federal agencies involved in education are developing and becoming formalized.

This section also mandates FICE to conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. FICE is required to report its findings to Congress within 2 years. The committee intends that FICE devote much attention to and conduct an extensive investigation of the relationship between vocational education programs in the Department with other vocational-oriented programs in the Department of Labor. The committee has been made aware of lack of coordination and duplication of effort between the vocational education and training programs of HEW and the Department of Labor. A strong, coordinated vocational education and training effort is important to the economic growth of the nation.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Section 301. Transfers from HEW

Section 301(a) transfers all officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Office of Management and Budget Director are to be employed, held, or used primarily on connection with any function of the following agencies, offices, or parts of agencies or offices:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of HEW giving advice and making recommendations principally concerning education; and

(5) the Office of Handicapped Individuals of the Department of HEW.

Subsection 301(b)(1) transfers to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary, the Assistant Secretary for Education, or the Commissioner of Education of the Department with respect to the following:

(A) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education. (The Education Division was created by the Education Amendments of 1972 to coordinate functions of the U.S. Office of Education and the National Institute of Education (NIE). Authorization for NIE expires at the close of Fiscal Year 1979.)

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics. (The Office of the Assistant Secretary for Education (ASE) coordinates all Education Division functions. ASE is responsible for providing administrative services to the Fund for the Improvement of Postsecondary Education (FIPSE) and for the National Center for Education Statistics (NCES).)

(C) The Institute of Museum Services. (The Institute for Museum Services is authorized by the Arts, Humanities, and Cultural Affairs Act of 1976. It is established within the Department of Health, Education, and Welfare and delegated to the Office of the Assistant Secretary for Education.)

(D) Any advisory committee in HEW is giving advice and making recommendations principally concerning education.

Section 301(b)(2)(A) transfers all functions of the Department of HEW or the Secretary of HEW principally involving education including functions—

(i) Under the General Education Provisions Act, including section 404 relating to the Fund for the Improvement of Postsecondary Education (FIPSE). (The authorization for FIPSE expires at the close of fiscal year 1979.)

(ii) Under section 808 of the Elementary and Secondary Education Act of 1965. Section 808 of the Elementary and Secondary Education Act of 1965, as amended, authorizes grants for demonstration projects to improve school nutrition and health services for children from low-income families. (No appropriations have been requested over the last several years; functions can be funded under ESEA title IV, Educational Admendments of 1974.)

(iii) Under the Emergency School Aid Act. The Emergency School Aid Act, authorized by title VII of Public Law 92–318, the Education Amendments of 1972, provides grants to educational agencies for the purposes of reducing minority group isolation and

for improving the quality of education for all children. Authority is assigned to the Assistant Secretary for Education. (Education Amendments of 1978 alter program characteristics.)

(iv) Under the Higher Education Act (HEA) of 1965. The Higher Education Act, as amended, includes the following separate authorizations:

Community service and continuing education programs.

College library assistance and library training and research.

Strengthening developing institutions.

Student assistance (basic education opportunity grants, grants to States for State student incentives, special programs for students from disadvantaged backgrounds, veterans' cost-of-instruction payments to institutions, among other grant and loan provisions.)

Teacher corps and teacher training, including teacher centers, training of higher education personnel, fellowships for teachers, vocational educational full-time and part-time training programs.

Financial assistance for the improvement of undergraduate instruction (facilities, television equipment, and minor remodeling).

Construction, reconstruction, and renovation of academic facilities (undergraduate and academic facilities grants and loans).

Cooperative education (grants for programs which provide alternating periods of academic study and of public or private employment).

Graduate programs (research and public service fellowships and stipends, and associated institutional assistance grants).

Establishment and expansion of community colleges (State planning grants, and grants to institutions).

Law school clinical experience programs (planning,, training, equipment, and library resources, stipends.)

General provisions (statewide planning grants, advisory council on graduate education).)

(v) Under the Emergency Insured Student Loan Act of 1969. (The Emergency Insured Student Loan Act of 1969 (Public Law 91–95) authorizes special allowances for lenders with respect to student loans under title IV-B of the HEA of 1965)

(vi) Under the act of August 30, 1890 (7 U.S.C. 321–328). (College-aid annual appropriation: This law provides authority for the Secretary to provide endowments for agriculture and mechanic arts to each State and Territory, Guam, and the Virgin Islands).

(vii) Under the Environmental Education Act. (The Environmental Education Act (Public Law 91–516), as amended, authorizes programs to encourage understanding of policies, and support activities designed to improve environmental and ecological understanding; (curriculum development, training of teachers, community programs). This act will be reauthorized in 1978.)

(viii) Under the Alcohol and Drug Abuse Education Act, except functions under section 5. (The Alcohol and Drug Abuse

Education Act (Public Law 91–527), as amended, authorizes grants or contracts to educational and community agencies to develop materials and support other educational activities designed to prevent drug abuses.

(ix) Under the International Education Act of 1966. (The International Education Act of 1966 (Public Law 89–698), as amended, provides authority for granting funds for advanced and undergraduate international studies. To date, no funds have been appropriated.)

(x) Under the National Defense Education Act of 1958. (The National Defense Education Act of 1958 (Public Law 85–864), as amended, provides authority for strengthening instruction in science, mathematics, modern foreign language, and other critical subjects. It also permits loans to nonprofit private schools, and support for guidance, counseling, and testing services. Recently, these activities have been funded under the grant-consolidation provisions of title IV of ESEA Amendments of 1974.)

(xi) Under the Education of the Handicapped Act. For a discussion of the programs administered under this act, see areas of discussion, vocational rehabilitation, page 42 of this report.

(xii) Under the National Commission on Libraries and Information Science Act. (The National Commission on Libraries and Information Science Act (Public Law 91–345) authorizes establishment of a commission which operates outside (as an independent agency) HEW. It provides advice to the President and Congress, conducts studies, surveys, and conducts meetings. It assumes responsibility for coordinating and administering the White House Conference on Library and Information Science (Public Law 93–568), to be held not later than 1978. HEW's role is to provide the Commission with "necessary administrative services . . .")

(xiii) Under the Vocational Education Act of 1963. The Vocational Education Act of 1963, as amended, is designed to improve the quality of vocational education. The majority of funds are provided to States in basic, formula-drive grants; States prepare State plans. Other discretionary and categorical grant programs under this Act include:

Special programs for disadvantaged;
Consumer and homemaking;
Innovation, research, and development projects;
Personnel development;
Bilingual vocational training; and
Adult education and special studies.

Subsection 301(b)(2)(B) transfers part B of title V of the Economic Act of 1964.

Subsection 301(b)(2)(C) transfers the functions administered by the secretary or the Office for Civil Rights for the enforcement of civil rights laws and educational orders relating to the functions transferred elsewhere in the bill.

Subsection 301(b)(2)(D) transfers the Office of Inspector General of HEW as it relates to the functions transferred by this section.

Subsection 301(b)(2)(E) transfers all laws dealing with the relationship between Gallaudet College (including the Model Secondary

School for the Deaf), Howard University, the American Printing House for the Blind, the National Technical Institute for the Deaf, and the Department of HEW.

Through the transfer of these special institutions, the committee intends that the new Department continue to allow these institutions maximum flexibility, independence, and autonomy in determining their educational program and system. The Secretary should consider coordinating the oversight of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with the Office of Special Education and Rehabilitative Services. Coordination of oversight of Howard University would be best linked with the Office of Postsecondary Education.

Subsection 301(b)(2)(F) transfers functions under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations.

Subsection 301(b)(2)(G) transfers functions under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine.

Subsection 301(b)(2)(H) transfers the functions being administered by the Secretary of HEW or by the Commissioner of the Rehabilitation Services Administration (RSA) under the Rehabilitation Act of 1973. RSA is presently located in HEW. This section also transfers the Randolph-Sheppard vending facility program, which is administered by the Commissioner but is not authorized by the Rehabilitation Act of 1973. This section does not transfer vocational rehabilitation services for social security disability beneficiaries, vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disabilities programs.

Subsection 301(b)(3) transfers the functions of the National Institute of Education.

Subsection 301(b)(4) transfers the functions of the Institute of Museum Services.

In describing the functions of the Department of Education, the committee has attempted to provide a complete list of existing functions now located in HEW that would appropriately be transferred to the Department. Subsection (b)(2) pertains to functions of the Department of Health, Education, and Welfare to be transferred and describes in specific terms the legislative authorities the committee expects the new Department to administer. The subsection is not intended as a broad authority permitting transfer, by administrative determination, of additional functions up to now clearly associated with health or welfare programs of the Department.

In addition, it is the committee's intent that prior experience requirements for employees performing specified functions be maintained as Congress intended. Examples are requirements in section 160(b) of the Vocational Education Act of 1963 (20 U.S.C. 2390(b)) that certain individuals performing vocational education functions have prior experience in the fields of junior and community college education, occupational guidance and counseling, and engineering.

Section 302. Transfers of functions from the Department of Agriculture

This section transfers the child nutrition programs authorized under the National School Lunch Act and the Child Nutrition Act from the Department of Agriculture, except for commodity distribution and the women-infants-children (WIC) program.

In addition, this section directs the Secretary of Education and the Secretary of Agriculture to consult with one another on the preferences of States and localities for commodities. It also requires the Secretary of Education to consult with Federal agencies concerned with nutrition policy when taking actions that affect the nutrition standards used in these programs.

The committee intends that the transfer of these school and child nutrition programs be made to consolidate the major Federal education programs affecting the Nation's schools in order to reduce duplicative and burdensome rules, regulations, and paperwork. The committee believes that by forming a uniform administrative chain in the administration of school feeding programs (Federal-State-local governments), significant opportunities will arise to cut redtape and increase efficiency.

The committee is also aware that many programs that will be administered by the Office of Elementary and Secondary Education, among others in the Department, have nutrition responsibilities. The committee intends that, by this transfer, improved coordination will result between these programs.

The committee expects the Assistant Secretary for Child Nutrition will give strong emphasis to developing nutrition education in the Nation's schools. The committee believes the key to reducing plate waste and improving dietary awareness for children is nutrition education. The expertise in the Department for developing curricula and educational materials should be made available to the Assistant Secretary for instituting more nutrition education.

An important part of the child feeding programs is the distribution of surplus agricultural commodities to the schools and other institutions. The committee believes the commodity program is best left in USDA. USDA has the expertise in purchasing surplus commodities, and its services in this field are used by other Federal agencies successfully. The commodities must be of high quality and contribute to the nutrition of the Nation's children. There must be consultation and coordination between the Department and USDA on the needs and preferences of schools relating to the commodity program. The committee expects at the minimum, the relationships which now exist between the Food and Nutrition Service in USDA and the two commodity agencies—Agricultural Stabilization and Conservation Service and Food Safety and Quality Service—should carry over to the Department of Education.

At times, the Assistant Secretary will need the assistance of Federal agencies dealing with nutrition research. The committee intends and expects that such agencies will furnish the technical and research advice and services required for the operation of these programs. In taking action affecting the existing nutrition standards, the Assistant Secretary shall make use of these facilities and consult with those Federal

agencies having nutrition responsibilities. Moreover, the committee expects that the extensive research resources of the Department of Education will also be utilized to help assess and improve the effectiveness and efficiency of the child nutrition programs.

The nutrition services provided by the child nutrition programs are critical to the proper development of the Nation's children and are important responsibilities of the schools. The committee believes that the scope of the Department should reflect these responsibilities. Further, the committee expects that the Department will actively seek to promote the full integration of these child nutrition programs into the educational process.

This section also transfers from the Department of Agriculture the graduate school.

The committee expects that the transfer will have little effect on the operation of the graduate school. The Secretary should allow the graduate school the same amount of independence and autonomy it has enjoyed under the USDA. Responsibility for policy and curriculum, and other operational authorities, should be the prerogative of the graduate school's board of trustees, not the Department.

The committee recommends complementary relationships should develop between the graduate school and the entire Department. Appropriate facilities should be made available for the continued efficient operation of the graduate school. The committee expects that the Department will share library, classroom, demonstration and audiovisual facilities with the graduate school and its faculty and students. Sharing resources should in no way disrupt or interfere with activities and program operations assigned to the Department by law.

Coordination of the programs of the Office of Occupational, Adult, and Community Education concerning occupational and community education with those of the graduate school—as an institution specializing in continuing education—would be desirable and beneficial.

The continuing prosperity and expansion of the graduate school should be the major objective of the Secretary.

Section 303. Transfers of functions from the Department of the Interior

This section transfers all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

The transfer of functions relating to the operation, construction, and maintenance of schools and dormitories would become effective whenever the President prescribes, but in no case later than 3 years after the effective date of this act. Within 1 year after the date of enactment, the Secretary would transmit to Congress a plan, developed in consultation with the affected tribes, Indian organizations, and other groups, for effecting these particular transfers.

In making the transfer of education functions from the Bureau of Indian Affairs, the committee intends that all functions not relating to the operation, construction, and maintenance of the BIA school system be transferred to the Assistant Secretary for Indian Education in the new Department on the effective date of this legislation.

By "all functions of the Secretary of the Interior . . . relating to

the education of Indians, Alaskan Natives, and Aleuts," the committee wants to make clear that this also includes any financial assistance to public schools and tribally operated schools authorized under the so-called Johnson-O'Malley Act. The committee understands that approximately $33 million was spent under this program in fiscal year 1978 for educational assistance.

The committee has provided for a 3-year phase-in period for the transfer of all functions relating to the operation and maintenance of the BIA schools. The legislation also provides that the Assistant Secretary, through the Secretary, shall transmit to Congress a comprehensive plan for effecting the transfer.

The 3-year phase-in period is necessary for the orderly and efficient transfer of the BIA schools. The committee believes the phase-in period will result in little or no disruption or adverse effects to the schools.

Much emphasis and diligence should be placed on developing the comprehensive plan for transfer. The committee stresses the importance of consultation with Indian tribes and organizations on the transfer. The plan must have the input of Indian people for it to be successful. The plan should also contain recommendations for increasing the level of control and participation of Indian education by Indians themselves. The committee believes one important aspect of the plan shall be the recommendations of the Assistant Secretary on the possible creation of an all-Indian board or commission to play a significant role in the development of policy on the Federal level. The committee believes it is important to consider the need for the creation of such a high-level Indian education panel to advise the Secretary and the Office of Indian Education. The committee expects the Assistant Secretary and the Secretary will transmit to the Congress their recommendations for such a board, but only after having actively solicited the input of Indian people on the makeup, powers, and structure of such a board.

The committee further intends that support services for the schools also be transferred during the phase-in period. All functions relating to construction, policy development, and planning, evaluation, and budget should be transferred. The committee will monitor the 3-year phase-in for its efficiency, and for the close cooperation it expects to develop between the Interior Department and the Department of Education.

Section 304. Transfers of agencies and functions from the Department of Defense

This section provides for the transfer of the Department of Defense overseas dependents schools. This section also authorizes the operation of the dependents schools, which in the past have been authorized only by appropriation legislation. The Secretary is required to develop a comprehensive plan for effecting the transfer of the schools within 1 year of the date of enactment.

The committee recognizes the operation of the dependents schools will require careful analysis before a plan of transfer can be designed and executed. During this transition, the Congress expects the Secre-

tary of Defense and the Secretary of Education to work closely to assure a smooth transfer of the schools and to avoid any disruption to the education programs conducted in the schools. In addition, section 505(a) of the bill requires that agreements between the schools and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer of the schools.

The administrative reorganization of the schools which is currently underway should continue, and should not be disrupted during the transitional period.

The section requires that the comprehensive plan for transfer include recommendations for increasing the participation of parents, educators, students, school administrators, and military personnel in the operation and development of the schools. The committee believes it is important to consider the need for the creation of a board or commission, made up of the aforementioned individuals, to guarantee more input in the development of policy and in the operation of the schools by those involved with the educational process. Such a board would operate at the Federal level, and could have responsibilities similar to that of a State board of education. The committee expects the Secretary will transmit to Congress his or her recommendations, developed after much study and consultation with all affected parties, for the structure and authority of such a board. These recommendations should be contained within the comprehensive plan for effecting the transfer of the schools.

Section 305. Transfers of functions from the National Science Foundation

Subsection (a) transfers certain programs of the National Science Foundation (NSF) or of the Director of the National Science Foundation relating to science education.

It does not transfer programs with respect to graduate fellowships and traineeships integral to the support of scientific research and development; programs concerned with ethical, value, and science policy issues; or those for communicating science values to nonscientists.

Subsection (b) authorizes the Secretary to conduct the programs transferred by subsection (a). Only certain existing National Science Foundation science education programs are being transferred; NSF will retain the function and the right to continue its activity in appropriate science education programs.

In subsection (c) the Secretary is mandated to consult with the Director of NSF when conducting the programs transferred under this section.

Subsection (d), which is related to subsection (b), assures that NSF retains the authority to institute new programs under section 3(a)(1) of the National Science Foundation Act of 1950, even though certain of its existing programs are being transferred to the new Department.

Section 306. Transfers of programs from the Department of Justice

This section transfers the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Interim Program from the Department of Justice.

Section 307. Transfers of functions from the Department of Housing and Urban Development

This section transfers the administration of college housing loans from the Department of Housing and Urban Development.

Through the transfer, the committee expects that the present high level of efficiency will be maintained in the administration of the program. The complex legal agreements and procedures used by HUD for the program should not be disrupted by the transfer. The committee intends that the transfer will not change the existing relationships between HUD and the Federal Reserve Bank, which serves as the fiscal agent for the program. Further, the committee recommends the Secretary coordinate and administer together the college housing program and the higher education facilities loan and insurance fund in the new Department to facilitate the development of a consolidated assistance program for construction of higher education facilities.

Section 308. Transfer of the Advisory Council on Education Statistics

This section transfers personnel, assets, and functions of the Advisory Council on Education Statistics.

Section 309. Effects of transfers

Any function of an officer or agency transferred will include any aspect vested in a subordinate of the officer or in a component of the agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

Section 401. Officers and employees

Subsection (a) authorizes the Secretary to appoint and fix the compensation of officers and employees necessary to carry out the functions of the Secretary and the Department, subject to the civil service laws.

Subsection (b) provides for the transfer to the Department of Education of the "supergrade" (GS–16, 17, and 18) positions related to existing programs that are being transferred to the Department. These positions exist in their current locations pursuant to 5 U.S.C. 5108(a). Because the positions already have been designated by the Civil Service Commission, the provision permits the Secretary to appoint the incumbents to similar positions in the Department without requiring new reappointment authority. Paragraph (3) assures that this exception will apply only with regard to these individuals.

Subsection (c) authorizes certain excepted appointments for use in the Office of Educational Research and Improvement generally following those now available for programs of the National Institute of Education and the National Science Foundation that are being transferred to the Department. This subsection also authorizes the appointment of up to 15 transitional employees on an excepted basis.

Subsection (d) authorizes the appointment, in conformity with the civil service laws, or 21 supergrade employes to replace 21 such positions created by law in connection with programs being transferred to the Department. In addition, it authorizes 50 new supergrade positions, in conformity with the civil service laws. The Committee feels the additional 50 supergrade positions are necessary due to the fact

that projected overhead functions for the department are now extremely lean in supergrades. For example, only five supergrade positions are now available for the administration of budget functions, Major additional needs for the overhead functions of the General Counsel, Inspector General, Administration and Budget, Regional Offices and the Immediate Office of the Secretary would be needed. The Department would require additional supergrade positions for the overseas schools, which have nearly 10,000 employees, the Indian schools, which have nearly 9,000 employees and major grant making responsibilities and for the nutrition programs which would account for almost $3 billion in programs and which would be administered by 600 personnel. Currently these programs only have authority to hire five supergrades. The Committee does not expect additional supergrades to be requested for the Education Division program activities.

In terms of budget outlays, the Department will be the fourth largest domestic department in terms of outlays with authority to hire the smallest number of supergrades, even with the addition of these positions. The 21 recreated positions will retain their existing grade levels, subject to the authority of the Secretary to reevaluate such levels from time to time. In assigning the supergrade positions particular grade levels under subsection (d), other than those used to replace positions previously established by law within the Education Division, 63 percent would be deemed GS–16's, 25 percent GS–17's, and 12 percent GS–18's.

Subsection (e) provides all Indian preference hiring laws which are now in effect will continue to remain in effect after enactment.

The committee intends that the Office of Indian Education take strong steps to institute Indian preference in its employment practices. Indian preference should apply to all the Office's functions. Responsibility for insuring Indian preference is enforced should be given to the Office for Civil Rights.

Subsection (f) is concerned with the authorization for and compensation of voluntary personnel.

Section 402. Experts and consultants

This section allows the Secretary to obtain the services of experts and consultants.

Part B—General Provisions

Section 411. Authority of the Secretary

This section provides that where a function is transferred to the Secretary, there are available to the Secretary the same authorities for carrying out the function that were available to the agency or officer from which the function was transferred.

Section 412. Delegation

Section 412 authorizes the Secretary to delegate functions to other officers and employees of the Department and to authorize them to delegate such functions further (unless the act provides otherwise). The delegation of the Secretary's authority to another officer or employee does not relieve the Secretary of ultimate responsibility for the exercise of the function, nor is this section intended to be inconsistent with the requirements for redelegation of functions provided for in section 413.

Section 413. Reorganization

Section 413 contains provisions governing reorganization of offices and functions within the Department.

Subsection (a) generally authorizes the Secretary to allocate or reallocate functions among the officers of the Department and to establish, consolidate, alter, or discontinue organizational entities within the Department that may be necessary or appropriate. This authority is allowed with certain exceptions stated in this section. The reorganization must be consistent with section 202 (g) of this act which requires the President, in submitting nominees to executive-level positions established in the bill, to state the particular functions of the Department the individual will exercise upon taking office. This reorganization authority is subject to section 202(g) to insure that functions required to be performed by a particular officer by this act will continue to be performed by such officer even if the Secretary chooses to reorganize the Department.

Except for the procedure provided for by subsection (b), section 413 does not allow the Secretary to allocate or reallocate functions or to establish, consolidate, alter, or discontinue organizational entities within the Department if such entities or functions with respect to such entities are established by statute. The abolition of organizational entities established by this act and the alteration or the delegation of functions under this act to any specific organizational entity is also prohibited.

Subsection (b) provides an exception with respect to the following offices and the functions attached to those offices named: Office of Bilingual Education; Teacher Corps; Community College Unit; National Center for Education Statistics; Office of Career Education; National Institute of Education; Office of Environmental Educa- Resources; Institute of Museum Services; and administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

In the case of the offices listed, the Secretary could not alter, consolidate, or discontinue any organizational entity or reallocate any function vested by statute in such an entity unless the Secretary notifies the Senate Committee on Human Resources and the House Committee on Education and Labor 90 days in advance of such action. The notice must contain a full and complete statement of the action proposed to be taken pursuant to the reorganization and the supportive facts and circumstances justifying such a proposed action.

Subsection (c) provides that on the effective date of the act, the Educational Division of the Department of Health, Education, and Welfare, including the Office of Education and its Bureau of Education for the Handicapped, Bureau of Occupational and Adult Education, and Office of Indian Education, and the Office of the Assistant Secretary for Education of that Department shall lapse.

The purpose of this section is to give the Secretary specifically stated flexibility with respect to certain offices all previously existing within the Department of Health, Education, and Welfare and transferred to the Department of Education. Under ordinary circumstances, the Secretary would be prevented from reorganizing or reallocating functions where Congress has specifically provided that such func-

tions be performed by particular entities created by legislation. The committee was concerned that any flexibility given to the Secretary pertaining to a reorganization of functions or offices created by statute be subject to the legislative process or subject to reorganization plan. However, a limited exception is stated in this section, which provides for certain flexibility on the part of the Secretary with respect to the offices or units named in the section. This limited authority does not extend to the abolition of functions under any circumstances and gives the Secretary some flexibility to reorganize certain functions within the Department due to the fact that a new structure has been established by the bill and that existing functions or units might not be placed appropriately in the context of the new Department, if the Secretary is not provided some flexibility.

Section 414. Reporting relationships

This section gives the Secretary flexibility, consistent with section 413, with regard to reporting relationships with subordinate officers. Subsection (a) provides (subject to the limitations of section 413, but notwithstanding the General Education Provisions Act (20 U.S.C. 1221 et seq.) or any other act) that any officer or employee of the Department whose functions are transferred by the act and who was previously required to report to either the Commissioner of Education of HEW will report to the Secretary. Subsection (b) authorizes the Secretary to delegate any such reporting requirement to any other officer or employee of the Department.

Section 415. Rules

This section authorizes the Secretary to prescribe rules and regulations in connection with the functions of the Secretary of the Department. The promulgation of rules and regulations will be subject to the requirements of the Administrative Procedure Act (5 U.S.C. 551 et seq.)

Section 416. Contracts

This section allows the Secretary to enter into and perform contracts, grants, leases, cooperative agreements, or other similar transactions to the extent and to the amount provided for in advance under appropriate acts.

Subsection (b) provides that the restricting of contracting and related authority to those funded in advance by appropriations is not intended to apply to existing programs, nor to existing contract authorities under existing law. Laws granting specific contract authority also will continue to apply.

Section 417. Technical advice

This section authorizes the Secretary to provide technical assistance with respect to any program or function of the Secretary or the Department. The Secretary must also provide, upon request, technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

Section 418. Regional and field offices

The Secretary may establish, maintain, alter, or discontinue regional or other field offices.

Section 419. Acquisition and maintenance of property

This section allows the Secretary to acquire and maintain schools and related facilities and accommodations for employees of the Department and their dependents only to the extent the facilities are of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

Section 420. Facilities at remote locations

This section authorizes the Secretary to provide various services (such as medicine, food and dining facilites) to employees and their dependents stationed at remote locations when these services are not otherwise available.

Section 421. Use of facilities

This section grants the Secretary the power to use the research equipment, services, and facilities of the United States or of any State Indian tribe, or tribal organization, or foreign government, with its consent.

The Secretary may also permit various entities to use the Department's property for Department purposes.

Section 422. Copyrights and patents

This section authorizes the Secretary to acquire copyrights, patents licenses, and releases for the Department's use.

Section 423. Gifts and bequests

This section allows the Secretary to use gifts for the purpose of aiding or facilitating the work of the Department.

Section 424. Working capital fund

This section authorizes the Secretary to establish a working capital fund for common administrative services.

Section 425. Funds transfer

When the Secretary is authorized in an appropriation act he or she may transfer funds from one appropriation to another within the Department as long as no appropriation either increases or decreases by more than 5 percent and no transfer results in increasing the appropriation above the amount authorized.

Section 426. Seal of Department

This section provides for the Secretary to approve a design for a seal for the Department.

Section 427. Annual report

Section 427 requires the Secretary, as soon as practicable after the end of each fiscal year, to prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. The report will include a statement of the goals, priorities, and plans for the Department which are consistent with the findings and purposes of this act; contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of the goals, priorities, and plans for the Department specified in the findings and purposes; the effec-

tive and efficient management of the Department; and the coordination of the functions of the Department.

The report will also analyze objective data concerning changing trends in education; areas of critical concern; and the performance of the American educational system.

In addition the report will include budget projections for the 5 fiscal years succeeding the fiscal year for which the report is made, and it will contain a separate section on the recommendations for the fiscal year for which the report is made of the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

Section 448 of the General Education Provisions Act allows the Commissioner to submit within the Commissioner's annual report recommendations for the abolition or combination of advisory committee functions. Since Section 427 is a successor to the Commissioner's annual report, the Committee expects the Secretary will submit to the Congress any such recommendations on advisory committees in the annual report.

In preparing and developing this report the Secretary shall, to the maximum extent practicable, consult with members of the public. Within 90 days after the issuance of the report, the Secretary will hold public hearings. In the course of the Secretary's consultation, the Secretary may reimburse any person for expenses reasonably incurred if such person has made or is likely to make a material contribution to the work of the Department or could not otherwise participate fully and effectively in the consultation.

Section 428. Relationship to General Education Provisions Act

Section 428 provides the General Education Provisions Act shall apply only to functions transferred by this act to which the GEPA applies immediately prior to the date of enactment (except where inconsistent with the provisions of this Act.)

Section 429. Authorization of appropriations

This section authorizes to be appropriated whatever sums may be necessary to carry out the provisions of this act and to enable the Secretary to administer and manage the Department.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Section 501. Transfer and allocations of appropriations and personnel

501(a) provides that all personnel, assets, liabilities, contracts, property, records, and unexpended sums connected with the functions transferred by this act are also transferred. Unexpended funds would be used only for the purposes for which they were originally authorized and appropriated.

Section (b) provides positions expressly specified by statute or reorganization plan to carry out functions transferred by this act, the personnel occupying those positions on the effective date of this act, and the personnel authorized to receive compensation in those positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the executive schedule on the effective date of this act, will be subject to the provisions of section 503 of this act.

Section 502. Effect on personnel

Subsection (a) provides the permanent positions transferred would not be reduced in grade nor would they be separated for at least 1 year (unless stated otherwise in the act).

Subsection (b) further provides that a person who held a position compensated in accordance with the executive schedule and who is appointed in the Department to a position having duties comparable to those he or she performed immediately preceding the appointment will be compensated at least at the same rate as he or she was at the previous employment.

Section 503. Agency terminations

If the functions of an agency, commission, other body, or component thereof have been terminated or transferred, the agency, commission, other body, or component would terminate unless otherwise provided in this act. If this termination occurs, each position and office within the terminated unit would also terminate.

Section 504. Incidental transfers

The Director of the Office of Management and Budget (OMB) is authorized and directed to make any incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended funds, as may be necessary to accomplish the purposes of this act. The Director of OMB will provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this act and for whatever further measures and dispositions as may be necessary to effectuate the purposes of this act.

This section is not intended to authorize the transfer of any major program authorities not specified in the bill. The provision is designed to cover functions that are necessary to carry out the provisions of the law for the creation of the new Department. The specifications of transfers of personnel, assets, et cetera, in sections 301(a), 304(a)(1), and 308 are not intended to limit the authority contained in this section.

Section 505. Savings provisions

Subsection (a) provides any orders, rules, regulations, determinations, permits, grants, contracts, certificates, licenses, and privileges which are in effect at the time of enactment will continue in effect until their proper termination or modification.

Subsection (b) provides any proceeding, or application for a license, permit, certificate, or financial assistance affecting a function which is transferred will continue after the transfer.

This section also provides the transfer of any functions by this act would not affect any pending suit. If the suit was against an officer in his official capacity, that officer would be replaced as a party to the suit by the appropriate official of the new Department.

Section 506. Separability

This section provides if any provision of this act, or its application to any person or circumstance is held invalid, neither the remainder of this act nor the application of the provision to other persons or circumstances would be affected.

Section 507. Reference

Any Federal law which refers to a governmental unit the functions of which are transferred to this Department would be deemed to refer to the component of this Department in which this act vests those functions.

Section 508. Technical amendments

This section makes technical amendments in various acts. For example, the Secretary of Education is added to the list of successors to the Presidency, the Department of Education is added to the list of executive departments, and the executive level officers provided for in this act are added to title 5 of the United States Code.

Section 509. Amendment to the Comprehensive Employment and Training Act

This section amends section 306 of the Comprehensive Employment and Training Act of 1973 to read "Consultation with the Secretaries of Education and of Health and Welfare." It provides for the Secretary of Labor to consult with the Secretary of Health and Welfare concerning services of a health and welfare character. The Secretary of Labor would consult with the Secretary of Education concerning services of an educational nature. The Secretary of Education would solicit advice from State educational agencies with respect to education services.

The Secretary of Labor would obtain the approval of the Secretary of Education when arranging for the provision of basic education and vocational training directly.

Section 510.—Contracts with Indian tribal organizations

This section makes the Indian Self-Determination and Educational Assistance Act applicable to the Office of Indian Education in the new Department. It directs the Secretary to enter into contracts, upon request, with any Indian tribe to carry out any or all functions, authorities, and responsibilities transferred to the Secretary from the Department of the Interior, unless the Secretary finds the services to be rendered by the tribe to the beneficiaries will not be satisfactory, or adequate protection of trust resources will not be assured, or the proposed project or function cannot be properly completed or maintained. If the Secretary makes such a finding, he must consider whether the tribe would be deficient in performing the contract with respect to equipment, bookkeeping and accounting procedures, substantive knowledge of the program, community support, adequately trained personnel, or other necessary components of contract performance. The Secretary must state these objections to the tribe within 60 days, provide assistance to overcome the objections, and provide the tribe with a hearing and the right to appeal.

The Secretary is authorized to require any tribe requesting to enter into a contract to obtain adequate liability insurance. The Secretary may make grants to any Indian tribe for: the development, construction, operation, provision or maintenance of adequate education facilities or services; planning, training, evaluation or other activities designed to improve the capacity of a tribal organization to enter into a contract.

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The committee intends to strengthen self-determination in the Department of Education. The committee expects the Assistant Secretary for Indian Education and the Secretary will make strong efforts to encourage more tribes to contract for their educational services. The contracting process should be conducted with as little redtape and burdensome restrictions as possible. The Department and the Office of Indian Education should provide more technical assistance to the tribes. There should be strong efforts to minimize contracting problems, including making arrangements to cover startup costs and to determine tribal funding needs in advance.

The committee does not intend, at this time, that the contracting provisions be applied to programs authorized under the Indian Education Act. It would appear those programs are most effective when the grants are awarded on a competitive basis. The Secretary should seriously study, however, the future application of the contracting authority in the comprehensive plan for Indian education required under section 211.

Section 511.—Amendment to the Elementary and Secondary Education Act of 1965

A new sentence is added to the end of section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965. The sentence will read:

> The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.

Section 512.—Redesignation

This section redesignates the Department of Health, Education, and Welfare as the Department of Health and Welfare.

Any reference to Health, Education, and Welfare would refer to Health and Welfare.

With respect to this section the committee, and Senator Humphrey in particular, suggests the administration and members of Congress work together in developing a new name for the Department of Health and Welfare. Senator Humphrey has suggested such considerations as the "Department of Health and Human Development" or the "Department of Health and Human Resources." The committee suggests that renaming the Department of Health and Welfare be given priority consideration.

Section 513. Transition

The Secretary may utilize the services of personnel of the executive branch to facilitate the orderly transfer of functions under this act as long as the Secretary receives the consent of the appropriate department or agency head concerned.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Section 601. Effective Date

This act takes effect 180 days after the Secretary first takes office, or earlier if the President so prescribes. However, officers may be nominated and appointed and the Secretary may promulgate regulations any time after the date of enactment.

Section 602. Interim Appointments

If an officer has not entered office by the time this act is effective, the President may designate an acting officer for 120 days or until the office is filled, whichever comes first.

Evaluation of Regulatory Impact

Paragraph 5(a) of rule XXXIX requires each report accompanying a bill to evaluate the regulatory impact which would be incurred in carrying out the bill.

S. 991 creates a Cabinet-level Department of Education in the Federal Government. The bill's main purpose is to reorganize the Federal Government to improve governmental efficiency, management, and coordination.

The legislation provides for no new regulatory authority. The committee believes the creation of the Department of Education will not have any new regulatory impact on the provision of Federal educational services and programs. All existing rules and regulations in the programs transferred to the new Department will also be transferred.

One of the committee's goals in the creation of the Department of Education is to achieve a significant measure of consolidation of Federal education programs in order to reduce duplicative and time-consuming paperwork, rules, and regulations.

Estimated Cost of the Legislation

Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the cost implications of S. 991.

Based on this review, the Director of the CBO estimates the cost of creating the Department of Education will be: $3.3 million in fiscal year 1979; $5.7 million in fiscal year 1980; $8.6 million in fiscal year 1981; $10.441 million in fiscal year 1982; and $11.1 million in fiscal year 1983.

Once the Department is established, an analysis of programs designed to meet Federal objectives in the educational process may serve to point out duplication of effort. Should such duplication be highlighted, every effort should be made to eliminate and consolidate in the areas where duplication exists with an eye toward making the Federal educational effort more effective and coordinated through improved accountability, coordination, and manageability as has been stressed in the creation of the Department, and as a method of containing costs where the need for new programs may arise to meet changing national needs.

Staff additions outside of the executive positions newly authorized in the bill to carry out the administrative functions of the new Department are not anticipated. Cost containment for the new Department is as important an objective as the intent to provide education with the priority needed to insure its appropriate attention, and in fact, is desirable in terms of management, efficiency, and accountability in the Federal involvement in the educational process.

TEXT OF S. 991 AS REPORTED

A BILL To establish a Department of Education, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1978".

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TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

SEC. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access by all Americans, especially the disadvantaged and handicapped, to high quality educational opportunities;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities, and families;

(4) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(5) there is ineffective management of existing Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(6) there is substantial evidence that the quality of education and the development of basic skills are not keeping pace with current demands;

(7) the current structure of the executive branch of the Government fails to recognize the importance of education and does not allow for sufficient Presidential and public consideration of issues relating to education;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

SEC. 102. (a) It is the purpose of this Act to establish a Department of Education in order to—

(1) insure that education receives the appropriate emphasis at the Federal level;

(2) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(3) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(4) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs;

(5) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education, including the development and improvement of education programs and services;

(6) promote the quality and relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities;

(7) broaden approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, students, communities, the workplace, and other related institutions;

(8)(A) provide assistance in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level;

(9) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(10) assess the potential contribution of educational institutions, including institutions of higher education, to the improvement of education by creating mechanisms by which such institutions may bring problems to the attention of appropriate departments and agencies and may make recommendations to foster the continuing vitality of such institutions.

(b) It is the intention of the Congress in the creation of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependent Children;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compen-

sated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(2) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Indian Education;

(C) an Assistant Secretary for Child Nutrition;

(D) an Assistant Secretary for Elementary and Secondary Education;

(E) an Assistant Secretary for Postsecondary Education;

(F) an Assistant Secretary for Occupational, Adult, and Community Education;

(G) an Assistant Secretary for Educational Research and Improvement;

(H) a Director of the Office for Civil Rights;

(I) two additional Assistant Secretaries;

(J) an Inspector General; and

(K) a General Counsel.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall report directly to the Secretary and shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(3) The Assistant Secretary for Indian Education shall be appointed by the President, by and with the advice and consent of the Senate, from among lists of candidates submitted by tribes or other organizations of Indians, Alaskan Natives, or Aleuts.

(d) One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section

203(13) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependent Children. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c), (d), and (f), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education including programs under part B of title V of the Economic Opportunity Act of 1964;

(2) administration of programs pertaining to post-secondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of child nutrition programs;

(6) administration of programs relating to special education and rehabilitation services;

(7) administration of programs for education of Indians, Alaskan Natives, and Aleuts, and fulfillment of the obligations of the Government relating to education of such individuals;

(8) administration of schools for the overseas dependent children of personnel of the Department of Defense;

(9) enforcement of the civil rights laws relating to education;

(10) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(11) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(12) public information;

(13) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and

coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(14) congressional relations, including responsibility for providing a continuing liasion between the Department and the Congress;

(15) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(16) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(2)(C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community

Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Occupational, Adult, and Community Education the functions of the Bureau of Occupational and Adult Education transferred under section 301(b)(1)(A) (other than administrative and support functions). The Assistant Secretary for Occupational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. (a) There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(2)(A)(xi) (including the functions of the Bureau for the education and training of the handicapped) and 301(b)(2)(H), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

OFFICE OF CHILD NUTRITION

SEC. 209. There is established in the Department an Office of Child Nutrition, to be administered by the Assistant Secretary for Child Nutrition appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Child Nutrition all functions transferred from the Department of Agriculture under section 302(a)(2), relating to the National School Lunch Act and the Child Nutrition Act of 1966 (other than administrative and support functions). The Assistant Secretary for Child Nutrition shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENT CHILDREN

SEC. 210. There is established in the Department on Office of Education for Overseas Dependent Children, to be administered by the Administrator appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 304, relating to the Office of Dependents Schools of the Department of Defense and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF INDIAN EDUCATION

SEC. 211. (a)(1) There is established in the Department an Office of Indian Education, to be administered by the Assistant Secretary for Indian Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Indian Education—

(A) all functions transferred from the Secretary of the Interior or the Department of the Interior under section 303 (other than administrative and support functions); and

(B) the functions relating to Indian education (other than administrative and support functions), transferred from the Education Division of the Department of Health, Education, and Welfare under sections 301(a)(1) and 301(b)(1), which were administered by the Deputy Commissioner for Indian Education of the Department of Health, Education, and Welfare on the day before the effective date of this Act.

(2) The Assistant Secretary for Indian Education shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not—

(1) modify or eliminate any eligibility requirements for participation in programs administered by the Secretary of the Interior or the Department of the Interior which were in existence on the day before the date of enactment of this Act; or

(2) alter in any way the trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts.

(c) In carrying out his responsibilities under this Act, the Assistant Secretary for Indian Education shall—

(1) consult regularly with the Assistant Secretary for Indian Affairs of the Department of the Interior in order to assure the efficient operation of programs for Indian education and to coordinate the provision of support services by the Department of the Interior; and

(2) take such as may be appropriate to increase the level of local control of Indian education by Indians, Alaskan Natives, and Aleuts.

(d) Not later than three years after the effective date of this Act, and every three years thereafter, the Secretary, after consultation with the Assistant Secretary for Indian Education and with affected Indian tribes, Indian organizations, and other groups, shall transmit to the Congress a comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 212. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(2)(A)(i), relating to the Fund for the Improvement of Postsecondary Education;

(B) under section 301(b)(2)(F), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 305.

(b) The Assistant Secretary for Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF INSPECTOR GENERAL

SEC. 213. (a) There is established in the Department an Office of Inspector General, to be administered by the Inspector General appointed under section 202(c).

(b) The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Secretary under section 301(b)(2)(D), and shall perform such functions with respect to all functions of the Secretary or the Department, or of any officer or component thereof. The Inspector General of the Department shall be appointed and removed in the same manner, and shall have the same status, as the Inspector General of the Department of Health, Education, and Welfare.

(c) The Inspector General shall be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provision which might otherwise apply.

OFFICE OF GENERAL COUNSEL

SEC. 214. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 215. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high-quality, and effective education.

(2) In carrying out its function under subsection (a), the Council may review rules or regulations proposed by the Department concerning Federal education programs prior to the promulgation of such rules or regulations in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions.

(c)(1) The Council shall be composed of twenty-two members, to be appointed by the President—

(A) six members from among representatives of elected State, local, and tribal officials;

(B) six members from among representatives of the public, including parents, students, and public interest groups;

(C) five members from among representatives of public and nonpublic preschool, elementary, and secondary educational institutions, including school board members, administrators, and teachers; and

(D) five members from among representatives of public and nonpublic postsecondary educational institutions, including board members, administrators, and teachers.

(2) In making appointments under this subsection, the President shall consult with various organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors.

(3) Not more than eleven of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The President shall designate one of the members of the Council as the Chair of the Council.

(f) Twelve members of the Council shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Council shall not affect its power to function.

(g)(1) In carrying out the provisions of subsection (b)(2), the Council shall establish a subcommittee to review proposed rules or regulations concerning Federal education programs in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. In reviewing such rules or regulations, the Council may provide parties to be affected by such rules or regulations an opportunity to comment on such rules or regulations, and shall consider any comments received in reviewing such rules or regulations.

(2) The Council may submit a report containing the results of its review of any such rules or regulations to the Secretary. Any such report shall be submitted by the Council within the time established for public comment on such rules or regulations. The Secretary shall place any report received from the Council on the record of the proceedings concerning such rules or regulations, and shall make such report public. Within thirty days of the receipt of such report, the Secretary shall submit a written public response on the record which addresses the recommendations made by the Council concerning any rule or regulation reviewed, and contains a statement of the reasons why the Secretary will or will not incorporate the recommendations made by the Council in such rule or regulation.

(h) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(i) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(j) The Secretary shall appoint an executive director for the Council. Such executive director shall be compensated at the rate provided for GS–17 of the General Schedule contained in section 5332, title 5,

United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 216. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their work life.

(c)(1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2)(A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior officials of that department or agency who are responsible for the formulation of policy in that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are—

(i) Department of Agriculture;
(ii) Department of Commerce;
(iii) Department of Defense;
(iv) Department of Energy;
(v) Department of Justice;
(vi) Department of Health and Welfare;
(vii) Department of the Interior;
(viii) Department of Labor;
(ix) Department of State;
(x) National Aeronautics and Space Administration;
(xi) National Endowment for the Arts;
(xii) National Endowment for the Humanities;
(xiii) National Science Foundation;
(xiv) Veterans' Administration;
(xv) Commission on Civil Rights; and
(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b) (5), the Committee shall conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c) (2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices, are hereby transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education; and

(5) the Office for Handicapped Individuals of the Department of Health, Education, and Welfare.

(b) (1) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(C) the Institute of Museum Services of the Department of Health, Education, and Welfare; and

(D) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare—

(A) principally involving education including functions—

(i) under the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) under section 808 of the Elementary and Secondary Education Act of 1965;

(iii) under the Emergency School Aid Act;

(iv) under the Higher Education Act of 1965;

(v) under the Emergency Insured Student Loan Act of 1969;

(vi) under the Act of August 30, 1890 (26 Stat. 417);

(vii) under the Environmental Education Act;

(viii) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(ix) under the International Education Act of 1966;

(x) under the National Defense Education Act of 1958;

(xi) under the Education of the Handicapped Act;

(xii) under the National Commission on Libraries and Information Science Act; and

(xiii) under the Vocational Education Act of 1963.

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to the Office of Inspector General of the Department of Health, Education, and Welfare relating to the functions transferred by this section;

(E) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(F) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(G) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of stu-

dent loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(H)(i) with respect to and being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals, respectively;

(ii) under section 405(a)(5) and section 405(c) of the Rehabilitation Act of 1973; and

(iii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(3) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(4) There are transferred to the Secretary all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(5) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 302. (a) There are transferred to the Secretary all functions of the Secretary of Agriculture or the Department of Agriculture (1) with respect to the operation of the Graduate School, and (2) under the National School Lunch Act and the Child Nutrition Act of 1966, except the functions of the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 and the function of the Secretary of Agriculture relating to commodity distribution.

(b) The Secretary shall consult with the Secretary of Agriculture with regard to the preferences of States for and ability of States to use commodities available for distribution.

(c) In setting nutrition standards for the programs transferred to the Secretary by subsection (a), the Secretary shall consult with other Federal agencies having significant responsibility for nutrition policy.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF THE INTERIOR

SEC. 303. (a) There are transferred to the Secretary all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

(b) The provisions of subsection (a) shall take effect on the effective date specified in section 601, except that the transfer of functions relating to the operation, construction, and maintenance of schools and dormitories effected by subsection (a) of this section shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers. Such plan shall be developed in consultation with representatives of the affected tribes, Indian organizations, and other groups.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 304. (a) (1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense.

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependent children of personnel of the Department of Defense.

(b) The Secretary is authorized to operate a program for the education for overseas dependent children of personnel of the Department of Defense and for education of dependent children of personnel of the Department employed in such program.

(c) In addition to authorities available to the Secretary under this or any other Act, the authorities available to the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnl Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(d) Notwithstanding the provisions of section 601, the transfer of functions under susbection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 305. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the

Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs as determined by the Director of the Office of Management and Budget, which relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM DEPARTMENT OF JUSTICE

SEC. 306. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the law enforcement and education program and the law enforcement intern program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 307. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

SEC. 308. (a) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

(b) There are transferred to the Secretary all functions of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

SEC. 309. The transfer of a function from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS–16, GS–17, and GS–18 all positions in such grades assigned and employed on August 1, 1978, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments in grades GS–16, GS–17, and GS–18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(c)(1) In addition to the number of positions which may be placed at the GS–16, GS–17, and GS–18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may appoint—

(A) for the Office of Education Research and Improvement, professional and technical employees, in a number not to exceed one-third of the total number of employees of such office; and

(B) not more than fifteen transitional employees;

without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter 53 of such title, except the Secretary may not compensate any such personnel in excess of the maximum rate prescribed for GS–18 of the General Schedule contained in section 5332 of title 5, United States Code.

(2) The authority of the Secretary to appoint and compensate personnel under paragraph (1)(B) shall expire three years after the effective date of this Act.

(d) (1) There are authorized for the Department seventy-one additional positions in the competitive service at levels GS–16, GS–17, and GS–18. Such positions shall be for the exclusive use of the Department and shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.

(2) The Secretary is authorized to assign twenty-one of the positions authorized under this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level of each such position and make any necessary reductions in such grade level.

(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS–16, GS–17, or GS–18 under section 5108(a) of title 5, United States Code, of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 percent shall be deemed GS–16 positions, 25 percent shall be deemed GS–17 positions, and 12 percent shall be deemed GS–18 positions.

(e) (1) The functions which are administered by the Office of Indian Education established under section 211 and to which section 12 of the Act of June 18, 1934 (25 U.S.C. 472), or other Indian preference laws in effect on the day before the effective date of this Act are applicable and shall continue to be subject to such laws.

(2) Individuals who (A) are, on the day before the effective date of this Act, performing functions subject to section 12 of the Act of June 18, 1934 (25 U.S.C. 472) or other Indian preference laws in effect on the day before the effective date of this Act, and (B) are transferred to a part of the Department other than the Office of Indian Education established by section 211, shall continue to be subject to such laws for the duration of their service in the Department.

(f) (1) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) provided that such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under subsection (a) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants

at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

PART B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

SEC. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any of his functions to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) Subject to the provisions of section 202(g) of this Act and subsection (b) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;
(B) Teacher Corps;
(C) Community College Unit;
(D) National Center for Education Statistics;
(E) Office of Career Education;
(F) National Institute of Education;
(G) Office of Environmental Education;
(H) Office of Consumers' Education;
(I) Office of Libraries and Learning Resources;

(J) Institute of Museum Services; and

(K) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) On the effective date of this Act, the following entities shall lapse:

(1) The Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(2) The Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) The Office of Indian Education of the Department of Health, Education, and Welfare;

(4) The Bureau for the education and training for the handicapped of the Department of Health, Education, and Welfare; and

(5) The Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and indi-

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viduals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out the functions of the Secretary in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;
(2) food and other subsistence supplies;
(3) dining facilities;
(4) audiovisual equipment, accessories, and supplies for recreation and training;
(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;
(6) living and working quarters and facilities; and
(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a) (1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of functions from the Department of Defense to the Department under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such periods as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and

prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department; and

(C) the coordination of the functions of the Department;

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel;

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas; and

(C) the performance of the American educational system, as measured by such indicators as the overall results of student testing on generally recognized standard examinations for entrance to secondary and postsecondary institutions;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 428. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the

Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from such agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body or component thereof,

affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act taken effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not effect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or

any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(67) Under Secretary of Education.".

(e) Section 5215 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) Assistant Secretaries of Education (9).

"(123) Director of the Office for Civil Rights of Department of Education.

"(124) Inspector General of the Department of Education.

"(125) General Counsel of the Department of Education.".

(f) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(144) Administrator of Education for Overseas Dependent Children of the Department of Education.

"(145) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Welfare, the Department of Education,".

AMENDMENT TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 509. Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND WELFARE

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Welfare with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

CONTRACTS WITH INDIAN TRIBAL ORGANIZATIONS

Sec. 510 (a). The Indian Self-Determination and Educational Assistance Act is amended by inserting after section 102 the following new section:

"CONTRACTS BY THE SECRETARY OF EDUCATION

"SEC. 102A. (a)(1) The Secretary of Education is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of such Indian tribe to carry out any or all of the functions, authorities, and responsibilities transferred to the

Secretary of Education from the Secretary of the Interior or the Department of the Interior under the Department of Education Organization Act, except that the Secretary of Education may decline to enter into any contract requested by an Indian tribe if he finds in accordance with the procedures required under paragraph (2), that—

"(A) the service to be rendered to the Indian beneficiaries of of the particular program or function to be contracted for will not be satisfactory;

"(B) adequate protection of trust resources will not be assured by such contract; or

"(C) the proposed project or function to be contracted for cannot be properly complete or maintained by the proposed contract.

"(2)(A) In making the findings required under paragraph (1), the Secretary of Education shall consider whether the tribe or tribal organization would be deficient in performance under the contract with respect to (i) equipment, (ii) bookkeeping and accounting procedures, (iii) substantive knowledge of the program to be contracted for, (iv) community support for the contract, (v) adequately trained personnel, or (vi) other necessary components of contract performance.

"(B) Whenever the Secretary of Education declines to enter into a contract or contracts pursuant to paragraph (1) of this subsection, the Secretary of Education shall (i) state objections in writing to the tribe within sixty days of such declination; (ii) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome such stated objections; and (iii) provide the tribe with a hearing, under such rules and regulations as the Secretary of Education shall promulgate, and the opportunity for appeal to the Secretary of Education on the objections raised to such declination.

"(3) The Secretary of Education is authorized to require any tribe requesting that the Secretary of Education enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance. Each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of the Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the sovereign immunity of the tribe outside or beyond the coverage and limits of the policy of insurance.".

(b) Section 103 of such Act is amended by striking out "Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Health and Welfare".

(c) Section 104 of such Act is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c) The Secretary of Education may, in accordance with regulations adopted pursuant to section 107 of this Act, make grants to any Indian tribe or organization for—

"(1) the development, construction, operation, provision, or maintenance of adequate education facilities or services, including the training of personnel for such development, construction,

operation, provision, or maintenance, from funds appropriated to the Department of Education for Indian education services or Indian education facilities; or

"(2) planning, training, evaluation, or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 102A of this Act.".

(d)(1) Section 106(a) of such Act is amended by striking out "102" and inserting "102, 102A,".

(2) Section 106(b) of such Act is amended by inserting "102A," immediately after "102,".

(3) Section 106(c) of such Act is amended by striking out "102" and inserting "102, 102A,".

(4) Section 106(d) of such Act is amended by inserting "102A," immediately after "102,".

(5) Section 106(e) of such Act is amended by inserting "102A," immediately after "102,".

(6) Section 106(f) of such Act is amended by striking out "102" and inserting "102, 102A,".

(7) Section 106(g) of such Act is amended by—

(A) inserting "102A," immediately after "102,"; and

(B) Striking out "Interior and Health, Education, and Welfare" and inserting "Interior, Health and Welfare, and Education".

(8) Section 106(h) is amended by striking out "102" and inserting "102, 102A,".

(e)(1) Section 107(a) of such Act is amended by striking out "Interior and of Health, Education, and Welfare" and inserting "Interior, of Health and Welfare, and of Education".

(2) Section 107(c) of such Act is amended by striking out "Interior and the Secretary of Health, Education, and Welfare" and inserting "Interior, the Secretary of Health and Welfare, and the Secretary of Education".

(f) Section 109 of such Act is amended by inserting "102A," after "102,".

(g) Section 5(a) of such Act is amended by striking out "Interior or the Secretary of Heath, Education, and Welfare," and inserting in lieu thereof "Interior, the Secretary of Health and Welfare, or the Secretary of Education".

(h)(1) Section 8 of the Act of August 5, 1954 (42 U.S.C. 2004b) is amended by inserting "102A," after "102,".

(2) The first sentence of section 6(a)(2) of the Military Selective Service Act of 1967 (50 U.S.C. App. 456) is amended by striking out "amended" and inserting "amended, or the Department of Education Organization Act".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 511. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

SEC. 512. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Welfare, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Welfare.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Welfare, the Secretary of Health and Welfare, or the appropriate official of the Department of Health and Welfare, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 513. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate and officer in the executive branch to act in such office for one hundred twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed shown in Roman):

UNITED STATES CODE

TITLE 3—THE PRESIDENT

Chapter 1—Presidential Elections and Vacancies

SEC. 1.***

* * * * * * *

SEC. 19. VACANCY IN OFFICES OF BOTH PRESIDENT AND VICE PRESIDENT; OFFICERS ELIGIBLE TO ACT.—

(a)(1)***

* * * * * * *

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of the President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health[, Education,] and Welfare, Secretary of Housing and Urban Development, Secretary of [Transportation] *Transportation, Secretary of Energy, Secretary of Education.*

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

Part I—THE AGENCIES GENERALLY

Chapter 1—Organization

§ 101. Executive departments

The Executive departments are:

* * * * * * *

The Department of Health[, Education,] and Welfare.

* * * * * * *

The Department of Education.

* * * * * * *

Part III—EMPLOYEES

Chapter 53—Pay Rates and Systems

* * * * * * *

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(10) Secretary of Health [,Education,] and Welfare.

* * * * * * *

(15) Secretary of Education

* * * * * * *

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(6) Under Secretary of Health[, Education] and Welfare.

* * * * * * *

(67) Under Secretary of Education.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(17) Assistant Secretaries of Health[, Education] and Welfare (5).

* * * * * * *

(41) General Counsel of the Department of Health[, Education] and Welfare.

* * * * * * *

(99) Commissioner of Social Security, Department of Health [, Education] and Welfare.

* * * * * * *

(122) Assistant Secretaries of Education (9).

(123) Director of the Office for Civil Rights of the Department of Education.

(124) Inspector General of the Department of Education.
(125) General Counsel of the Department of Education.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(24) Assistant Secretary of Health[, Education] and Welfare for Administration.

* * * * * * *

(41) Commissioner of Education, Department of Health[, Education] and Welfare.

* * * * * * *

(43) Commissioner of Food and Drugs, Department of Health[, Education] and Welfare.

* * * * * * *

(52) Commissioner of Vocational Rehabilitation, Department of Health[, Education] and Welfare.

* * * * * * *

(53) Commissioner of Welfare, Department of Health [, Education] and Welfare.

(144) Administrator of Education for Overseas Dependent Children of the Department of Education.

(145) Additional Officer, Department of Education.

* * * * * * *

PUBLIC LAW 90–40

June 30, 1967

AN ACT To amend the Universal Military Training and Service Act, and for other purposes

SEC. 1. * * *

* * * * * * *

DEFERMENTS AND EXEMPTIONS FROM TRAINING AND SERVICE

SEC. 6(a)(2). Commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service while on active duty and assigned to staff the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or assigned to the Coast Guard, the Bureau of Prisons, Department of Justice, or the Environmental Science Services Administration or who are assigned to assist Indian tribes, groups, bands, or communities persuant to the Act of August 5, 1954 (68 Stat. 674), as [amended] *amended, or the Department of Education Organization Act* shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4. Notwithstanding the

preceding sentence, commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service who, prior to the enactment of this paragraph, had been detailed or assigned to duty other than that specified in the preceding sentence shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4.

PUBLIC LAW 93-203

December 28, 1973

AN ACT To assure opportunities for employment and training to unemployed and underemployed persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Employment and Training Act of 1973".

* * * * * * *

SEC. 306. The Secretary of Labor shall consult with the Secretary of Health [, Education,] and Welfare, with respect to arrangements for services of a health[, education,] or welfare character under this *Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this* Act, and the Secretary of [Health,] Education [and Welfare] shall solicit the advice and comments of State educational agencies with respect to education services. Such *education* services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provisions of basic education and vocational training directly, pursuant to the provisions of this title, [he] *the Secretary of Labor* shall obtain the approval of the Secretary of [Health,] Education [, and Welfare] for such arrangements.

PUBLIC LAW 93-380

August 21, 1974

AN ACT To extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1974".

* * * * * * *

103(c)(2)(A) * * *

(B) For purposes of this section, the Secretary of Health [, Education,] and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and

in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. *The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.*

PUBLIC LAW 93-422

September 21, 1974

AN ACT To extend the Drug Abuse Education Act of 1970 for three years

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol and Drug Abuse Education Act Amendments of 1974".

SEC. 2(a) * * *

* * * * * * *

SEC. 5. TECHNICAL ASSISTANCE—

The Secretary *of Health and Welfare, the Secretary of Education*, and the Attorney General (on matters of law enforcement) shall, when requested, render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of programs of drug and alcohol abuse education. Such technical assistance may, among other activities, include making available to such agencies or institutions information regarding effective methods of coping with problems of drug and alcohol abuse, and making available to such agencies or institutions personnel of the Department of Health [, Education, and Welfare] *and Welfare, the Department of Education* and the Department of Justice, or other persons qualified to advise and assist in coping with such problems or carrying out a drug and alcohol abuse education program.

PUBLIC LAW 93-638

January 4, 1975

AN ACT To provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for

Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Self-Determination and Education Assistance Act".

* * * * * * *

REPORTING AND AUDIT REQUIREMENTS

SEC. 5. (a) Each recipient of Federal financial assistance from the Secretary of [Interior or the Secretary of Health, Education, and Welfare,] *Interior, the Secretary of Health and Welfare, or the Secretary of Education*, under this Act, shall keep such records as the appropriate Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

* * * * * * *

TITLE I—INDIAN SELF-DETERMINATION ACT

SEC. 101. This title may be cited as the "Indian Self-Determination Act".

CONTRACTS BY THE SECRETARY OF THE INTERIOR

SEC. 102. * * *

CONTRACTS BY THE SECRETARY OF EDUCATION

SEC. 102A. (a)(1) The Secretary of Education is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of such Indian tribe to carry out any or all of the functions, authorities, and responsibilities transferred to the Secretary of Education from the Secretary of the Interior or the Department of the Interior under the Department of Education Organization Act, except that the Secretary of Education may decline to enter into any contract requested by an Indian tribe if he finds in accordance with the procedures required under paragraph (2), that—

(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted for will not be satisfactory;

(B) adequate protection of trust resources will not be assured by such contract; or

(C) the proposed project or function to be contracted for cannot be properly complete or maintained by the proposed contract.

(2)(A) In making the findings required under paragraph (1), the Secretary of Education shall consider whether the tribe or tribal organization would be deficient in performance under the contract with

respect to (i) equipment, (ii) bookkeeping and accounting procedures, (iii) substantive knowledge of the program to be contracted for, (iv) community support for the contract, (v) adequately trained personnel, or (vi) other necessary components of contract performance.

(B) Whenever the Secretary of Education declines to enter into a contract or contracts pursuant to paragraph (1) of this subsection, the Secretary of Education shall (i) state objections in writing to the tribe within sixty days of such declination; (ii) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome such stated objections; and (iii) provide the tribe with a hearing, under such rules and regulations as the Secretary of Education shall promulgate, and the opportunity for appeal to the Secretary of Education on the objections raised to such declination.

"(3) The Secretary of Education is authorized to require any tribe requesting that the Secretary of Education enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance. Each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of the Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the sovereign immunity of the tribe outside or beyond the coverage and limits of the policy of insurance.".

CONTRACTS BY THE SECRETARY OF HEALTH [, EDUCATION,] AND WELFARE

SEC. 103. (a) The Secretary of Health [, Education,] and Welfare is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of any such Indian tribe to carry out any or all of his functions, authorities, and responsibilities under the Act of August 5, 1954 (68 Stat. 674), as amended: *Provided, however*, That the Secretary may initially decline to enter into any contract requested by an Indian tribe if he finds that: (1) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted for will not be satisfactory; (2) adequate protection of trust resources is not assured; or (3) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract: *Provided further*, That the Secretary of Health [, Education,] and Welfare, in arriving at his finding, shall consider whether the tribe or tribal organization would be deficient in performance under the contract with respect to (A) equipment, (B) bookkeeping and accounting procedures, (C) substantive knowledge of the program to be contracted for, (D) community support for the contract, (E) adequately trained personnel, or (F) other necessary components of contract performance.

(b) Whenever the Secretary of Health [, Education,] and Welfare declines to enter into a contract or contracts pursuant to subsection (a) of this section, he shall (1) state his objections in writing to the tribe within sixty days; (2) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome his stated objections; and (3) provide the tribe with a hearing, under such rules and regula-

tions as he shall promulgate, and the opportunity for appeal on the objections raised.

(c) The Secretary of Health [, Education,] and Welfare is authorized to require any tribe requesting that he enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance: *Provided, however*, That each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

SEC. 104 (a) * * *

* * * * * * *

(c) The Secretary of Education may, in accordance with regulations adopted pursuant to section 107 of this Act, make grants to any Indian tribe or organization for—

(1) the development, construction, operation, provision, or maintenance of adequate education facilities or services, including the training of personnel for such development, construction, operation, provision, or maintenance, from funds appropriated to the Department of Education for Indian education services or Indian education facilities; or

(2) planning, training, evaluation, or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 102A of this Act.

[(c)](*d*) The provisions of any other Act notwithstanding, any funds made available to a tribal organization under grants pursuant to this section may be used as matching shares for any other Federal grant programs which contribute to the purposes for which grants under this section are made.

* * * * * * *

SEC. 105(a) * * *

* * * * * * *

(b) The Act of August 5, 1954 (68 Stat. 674), as amended, is further amended by adding a new section 8 after section 7 of the Act, as follows:

"SEC. 8. In accordance with subsection (d) of section 214 of the Public Health Service Act (58 Stat. 690), as amended, upon the request of any Indian tribe, band, group, or community, commissioned officers of the Service may be assigned by the Secretary for the purpose of assisting such Indian tribe, group, band, or community in carrying out the provisions of contracts with, or grants to, tribal organizations pursuant to section 102, *102A*, 103, or 104 of the Indian Self-Determination and Education Assistance Act".

* * * * * * *

ADMINISTRATIVE PROVISIONS

SEC. 106. (a) Contracts with tribal organizations pursuant to sections [102] *102*, *102A*, and 103 of this Act shall be in accordance with

all Federal contracting laws and regulations except that, in the discretion of the appropriate Secretary, such contracts may be negotiated without advertising and need not conform with the provisions of the Act of August 24, 1935 (49 Stat. 793), as amended: *Provided*, That the appropriate Secretary may waive any provisions of such contracting laws or regulations which he determines are not appropriate for the purposes of the contract involved or inconsistent with the provisions of this Act.

(b) Payments of any grants or under any contracts pursuant to section 102, *102A*, 103, or 104 of this Act may be made in advance or by way of reimbursement and in such installments and on such conditions as the appropriate Secretary deems necessary to carry out the purposes of this title. The transfer of funds shall be scheduled consistent with program requirements and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by the tribal organization, whether such disbursement occurs prior to or subsequent to such transfer of funds. Tribal organizations shall not be held accountable for interest earned on such funds, pending their disbursement by such organization.

(c) Any contract requested by a tribe pursuant to sections [102] *102*, *102A*, 103 of this Act shall be for a term not to exceed one year unless the appropriate Secretary determines that a longer term would be advisable: *Provided*, That such term may not exceed three years and shall be subject to the availability of appropriations: *Provided, further*, That the amounts of such contracts may be renegotiated annually to reflect factors, including but not limited to cost increases beyond the control of a tribal organization.

(d) Notwithstanding any provision of law to the contrary, the appropriate Secretary may, at the request or consent of a tribal organization, revise or amend any contract or grant made by him pursuant to sections 102, *102A*, 103, or 104 of this Act with such organization as necessary to carry out the purposes of this title: *Provided, however*, That whenever an Indian tribe requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, such retrocession shall become effective upon a date specified by the appropriate Secretary not more than one hundred and twenty days from the date of the request by the tribe or at such later date as may be mutually agreed to by the appropriate Secretary and the tribe.

(e) In connection with a contract or grant made pursuant to section 102, *102A*, 103, or 104 of this Act, the appropriate Secretary may permit a tribal organization to utilize, in carrying out such contract or grant, existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(f) The contracts authorized under sections [102] *102*, *102A*, and 103 of this Act and grants pursuant to section 104 of this Act may include provisions for the performance of personal services which would otherwise be performed by Federal employees including, but in no way limited to, functions such as determination of eligibility of applicants

for assistance, benefits, or services, and the extent or amount of such assistance, benefits, or services, all in accordance with the terms of the contract or grant and applicable rules and regulations of the appropriate Secretary: *Provided*, That the Secretary shall not make any contract which would impair his ability to discharge his trust responsibilities to any Indian tribe or individuals.

(g) Contracts and grants wth tribal organizations pursuant to sections 102, *102A*, 103, and 104 of this Act and the rules and regulations adopted by the Secretaries of the [Interior and Health, Education, and Welfare] *Interior, Health and Welfare, and Education* pursuant to section 107 of this Act shall include provisions to assure the fair and uniform provision by such tribal organizations of the services and assistance they provide to Indians under such contracts and grants.

(h) The amount of funds provided under the terms of contracts entered into pursuant to sections [102] *102, 102A*, and 103 shall not be less than the appropriate Secretary would have otherwise provided for his direct operation of the programs or portions thereof for the period covered by the contract: *Provided*, That any savings in operation under such contracts shall be utilized to provide additional services or benefits under the contract.

PROMULGATION OF RULES AND REGULATIONS

SEC. 107. (a) The Secretaries of the [Interior and of Health, Education, and Welfare] *Interior, of Health and Welfare, and of Education* are each authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purposes of carrying out the provisions of this title.

* * * * * * *

(c) The Secretary of the Interior and the Secretary of [Health, Education, and Welfare] *Health and Welfare, and the Secretary of Education* are authorized to revise and amend any rules or regulations promulgated pursuant to this section: *Provided*, That prior to any revision or amendment to such rules or regulations, the respective Secretary or Secretaries shall present the proposed revision or amendment to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives and shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

* * * * * * *

REASSUMPTION OF PROGRAMS

SEC. 109. Each contract or grant agreement entered into pursuant to sections 102, *102A*, 103, and 104 of this Act shall provide that in any case where the appropriate Secretary determines that the tribal organization's performance under such contract or grant agreement involves (1) the violation of the rights or endangerment of the health, safety, or welfare of any persons; or (2) gross negligence or misman-

agement in the handling or use of funds provided to the tribal organization pursuant to such contract or grant agreement, such Secretary may, under regulations prescribed by him and after providing notice and hearing to such tribal organization, rescind such contract or grant agreement and assume or resume control or operation of the program, activity, or service involved if he determines that the tribal organization has not taken corrective action as prescribed by him: *Provided*, That, the appropriate Secretary may, upon notice to a tribal organization, immediately rescind a contract or grant and resume control or operation of a program, activity, or service if he finds that there is an immediate threat to safety and, in such cases, he shall hold a hearing on such action within ten days thereof. Such Secretary may decline to enter into a new contract or grant agreement and retain control of such program, activity, or service until such time as he is satisfied that the violations of rights or endangerment of health, safety, or welfare which necessitated the rescission has been corrected. Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

ADDITIONAL VIEWS OF MR. PERCY, MRS. HUMPHREY, AND MR. DANFORTH

We support the creation of a Department of Education. However, we oppose the transfer of the U.S. Department of Agriculture (USDA) child nutrition programs into the new Department. A motion to delete the child nutrition programs from S. 991 was defeated in committee by tie vote (8 to 8). The amendment will again be offered on the floor of the Senate.

There are a number of sound reasons for keeping these programs in USDA. First, a Department of Education will be dominated by educators. Educators have had a history of obstructing the placement of these programs within the schools. In testimony received by the committee, the Food Research and Action Center, a nonprofit, antihunger advocacy center stated that:

> A good portion of our effort has been in the area of school lunch and school breakfast program expansion. Time after time we have found that State and local boards of education have been at best uninterested, and at worst obstructionists, in this expansion effort. FRAC and/or legal services attorneys have brought numerous lawsuits seeking to expand school lunch programs in local areas. These lawsuits, brought on behalf of low-income plaintiffs, resulted in the establishment of school lunch programs in Hartford, Conn.; Bridgeport, Conn.; Mount Vernon, N.Y.; Cleveland, Ohio; and the State of Rhode Island, among others. In many of these areas, litigation would not have been required if state and local boards of education and education administrators had viewed the school food programs as integral parts of an educational environment.
>
> In short, in the past, poor people have not been able to look to education administrators and policymakers to spearhead the need for school food programs. Instead, these administrators have often taken the position that such programs are expensive, administratively burdensome, and must take a distant back seat to other education priorities.

In addition to FRAC's testimony, The Children's Foundation testified that it is completing a study on barriers to the implementation of the school breakfast program. The study is entitled "I'd Rather Go to Hell Than Run a Breakfast Program." This was the direct quote of a local school official. It is indicative of the view that many such officials have of these programs.

Second, the transfer will jeopardize the funding of the child nutrition programs. Since educators have not generally viewed nutrition programs as a vital part of the educational process, it is reasonable to assume that a Federal Department of Education would be no more responsive to the importance of such programs. When faced with

budgetary constraints, these programs will be seen as expendable. This would be particularly true of those child nutrition programs with little or no connection to school systems, such as the summer food and day care feeding programs.

Third, USDA would still keep the research support vital to these programs. USDA is increasing its research in both nutrition and agricultural economics. It would be counterproductive to remove the child nutrition programs from a Department that is presently equipped to do research in areas directly related to the improvement of these programs.

Fourth, although the administration has pledged its continued support for the commodities aspect of these programs, this guarantee may become worthless several years down the road as the programs become dominated by educators. Moreover, we must not lose sight of one of the original reasons behind the creation of the school lunch program, which was commodity support. Instead of paying farmers not to grow crops, we are paying them for their surplus crops and using those surplus crops to feed hungry children. This is a much more efficient use of taxpayers' money. As the entire Senate Committee on Agriculture brought to our attention:

> The school lunch program today constitutes the only effective means through which the Secretary of Agriculture can provide price and market stabilization to those farm commodities that do not enjoy the protection of Government price support programs.

Fifth, the transfer is opposed by a broad spectrum of groups, including agriculture groups, child-oriented public interest groups, nutritionists, and school food administrators. This grouping includes the American School Food Service Association, which is the largest national association representing people who direct, manage, and work in school nutrition programs at the State and local level. These groups have worked the closest with and are the most knowledgeable on the child nutrition programs.

Sixth, the President's reorganization project is presently conducting a study of the Federal nutrition effort. This study is not scheduled to be completed until next year. As a result, the transfer of these programs at this time would be premature.

Regarding nutrition education, we would again like to quote one of our witnesses, Mr. Hendrik Wentink of the Poultry and Egg Institute of America. He states:

> While nutrition education historically has nowhere received the emphasis it has deserved, it cannot be disputed that the USDA is exerting aggressive leadership in the area today. Secretary Bergland has formed a Human Nutrition Policy Committee to coordinate all USDA nutrition programs including food assistance, safety, quality research, and education. Interim regulations to implement nutrition education grants to the States under the 1977 Child Nutrition Act Amendments have been promulgated. The Department is conducting a novel nutrition awareness project which will test out a multimedia approach for issuing and reinforming

nutrition messages. Authority under recent amendments of the National School Lunch Act to prohibit the sale of "junk food" in participating schools is being invoked. The focus of Extension activities is being expanded to reach urban areas more effectively. The very substantial expanded food and nutrition program within the Extension Service is developing a special program to emphasize nutrition counseling for food stamp users. And these are far from all the fronts of the USDA's nutrition education campaign.

It has been stated that the best place for nutrition education is in the schools. We agree. But we also ask, if educators are so interested in nutrition education, why have they not instituted these programs in the schools? The evidence indicates educators are not interested. In fact, they are so disinterested that they have actually promoted non-nutritious "junk foods" in the schools. In order to raise extra money, they have candy and soda machines in the schools. These junk food machines compete with the nutritious lunches served in the school cafeteria. Congress recognized this problem, a problem created by educators, last year when it mandated USDA to ban the sale of junk foods that compete with the school lunch program. USDA has responded to that mandate and that ban is going into effect this summer. How can we justify transferring these programs to a Department which will be dominated by such insensitive interests?

The question has been asked, "Where will these programs best operate and serve our Nation's children?" The answer is that they will best operate and serve our children in USDA. In recent years, we have to understand that it is vitally important that our food, nutrition, and agricultural policies be coordinated. As Senator Talmadge stated in a letter to the committee, cosigned by the entire Senate Committee on Agriculture, Nutrition and Forestry, USDA is the best place for achieving maximum coordination. In the letter, he states:

> GAO in a recent report on nutrition research, found "a lack of central focus and coordination" to be the No. 1 barrier to progress in the area. We feel certain that progress in evolving a food and agricultural policy is equally dependent on having a central focus. If the development of a national energy policy demanded a new Department of Energy to coordinate and pull together all aspects of the problem, then we insist that the same principle applies to the development of a national food, nutrition, and agriculture policy. The nutrition programs should not be sent to other agencies or departments; indeed the food-related functions of other departments should be consolidated within the Department of Agriculture.

As we have shown, educators have a marked disinterest in nutrition education and in the school feeding programs. On the other hand, USDA has demonstrated great interest and enthusiasm. Transfer of these programs would not solve any problems, it would create new ones. The child nutrition programs should and must remain in a broad-based Department of Agriculture.

CHARLES H. PERCY.
MURIEL HUMPHREY.
JOHN C. DANFORTH.

ADDITIONAL VIEWS OF MR. STEVENS

While I support the general thrust of S. 991, to create a separate Department of Education, I am opposed to the inclusion of the Bureau of Indian Affairs schools and education programs.

Last May, I chaired a Government Affairs hearing, and the position of the American Indian community was made quite clear by the many Indian organizations that testified. The vast majority of Indians and Alaskan Natives are opposed to the removal of education programs from BIA which is responsible for matters affecting their interest. In Alaska, the largest Indian organization, the Alaska Federation of Natives, which represents all Alaskan Natives and Aleuts, opposed this transfer because they have not had enough time to discuss it with their members. They have informed me that the bill also does not adequately address trust responsibility or tribal sovereignty rights.

It is most unfortunate that the committee voted against the majority of the Indian communities wishes, during the same time period when representatives of the Indian nations were dramatically presenting their views to Congress and the administration. The enormous personal efforts made in the longest walk from California to the Nation's Capitol is symbolic of the traditional spirit ever present in the tribes. It seems to me that this Congress should be listening to these Native Americans instead of doing what they think is best for the Indian without proper consultation.

Early in 1976 are administration affirmed that issues affecting the American Indian would be resolved in the tribal council rooms and not in Washington, D.C.

It is distressing to me that this promise was broken. Because of overwhelming opposition in the Indian community, I offered an amendment in committee to delete the transfer of BIA schools and education programs. I will continue to oppose this transfer until the concerns of the Indian nations have been met.

Furthermore, I feel that the civil rights function of the Department of Education should contain an office responsible for addressing the bilingual education concerns of Indians. This office should be totally committed to the many unique problems of the Indian community and staffed accordingly. The problems Alaska has had in striving to meet the Supreme Court mandate in this area, demonstrate the need for a separate Indian division within the Office of Civil Rights.

Alaska has been embroiled in a battle with the Office for Civil Rights for 3 years. Last summer my State had been threatened with administrative hearings and a possible penalty of the loss of all Federal education funds. The State department of education has now reached a general consensus on a bilingual compliance plan. However, I feel if a Native American had been involved in the proceedings from the beginning there would have been more sympathy with the numerous dialects and rural conditions my State must overcome in order to comply with the 1974 Supreme Court decision.

TED STEVENS.

ADDITIONAL VIEWS OF MR. DANFORTH AND MR. ROTH

Our pluralistic, locally controlled system of education is one of this Nation's greatest assets. The establishment of a Cabinet-level Department of Education is not in any way intended or expected to result in expanded Federal involvement in education issues that are the primary responsibility of States and localities. Rather, the new Department is intended to strengthen the capacity of States, localities, and private institutions to meet their educational needs. The Secretary of Education must give high priority to simplifying Federal procedures and eliminating unnecessary requirements and constraints on the recipients of Federal education funds.

In establishing a Cabinet-level Department of Education, the temptation is going to be strong for the new Department to start flexing its muscles, to see itself as the source of all decisionmaking in education. That would be just exactly the wrong approach for it to take. It would be a real departure from what is very important to our tradition as a country, and that is that education is not run from Washington.

It should be made very clear that this bill does not serve as a mandate for the new Department to issue directives and regulations which impose its opinions on local school districts.

It is our intention that the Federal Government should be in the business of assisting and supporting local school districts and State governments as they address the problem of education. Federal education policy should supplement and complement, rather than direct or duplicate, State efforts to meet the Nation's education needs. The new Department of Education should not be in the business of preempting the decisionmaking process and aggregating to itself new powers to manipulate local decisions.

It should be noted that Federal sources provide less than 10 percent of States funding for elementary and secondary education. These funds consist primarily of programs such as ESEA, title I, and vocational education, where the States serve as administering agents for the Federal Government.

The new Department of Education should seek, as one of its primary and first efforts, to reduce the Federal paperwork burden. This burden stems primarily from the requirement that individual school districts report extensively on achievements expected, achievements actually experienced, and financial data associated with narrow categorical programs. California data suggests that the Federal requirements account for 60 percent of the local reporting burden and about 40 percent of the State reporting burden at the primary and secondary level.

The word "targeting" has been used in Washington. Targeting means that the Federal Government will direct its resources and its moneys at local and State governments in a manner calculated to have maximum impact on decisions which traditionally are made locally.

In practice, targeting has come to mean manipulation. With the Federal dollar, we can move State or local governments, manipulating them in the direction we think they should be going. This is a practice which ignores the traditional role of State and local governments, and which wrongly assumes that Federal agencies are better able to make wise decisions than local officials. In establishing a new Department of Education it is not our intention to advance this practice.

JOHN C. DANFORTH.
WILLIAM V. ROTH, JR.

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Calendar No. 1001

95TH CONGRESS, 2d Session } SENATE { REPORT No. 95-1079

AN ACT TO COMBAT INTERNATIONAL TERRORISM

AUGUST 9 (legislative day, MAY 17,) 1978.—Ordered to be printed

Mr. BAYH, from the Select Committee on Intelligence, submitted the following

REPORT

[To accompany S. 2236]

The Select Committee on Intelligence, to which was referred the bill (S. 2236) to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism, having considered the same, reports the bill with amendments. The committee makes no recommendation on the bill as a whole.

PURPOSE

The purpose of S. 2236. as reported, is to authorize such antiterrorist measures as the listing of states supporting terrorism, the imposition of sanctions against states so listed, the evaluation of security measures at foreign airports, the use of detection and identification taggants for explosives, the implementation of existing international agreements on terrorism, and the encouragement of further international antiterrorist activities.

BACKGROUND

International terrorism must be placed high on the agenda of the world's problems. It demands the serious consideration of world leaders and a coordinated, effective response. Terrorist incidents have not only become more frequent and destructive, but have taken on an international character as well. Experts fear that as air-piracy, hostage-taking, and bombing become commonplace, terrorists will resort to incidents involving weapons of mass destruction in attempts to cripple the vital systems of an entire city or region. Whereas terrorism was once motivated by such political motives as frustrated nationalism, as was the Palestinian movement, it has now taken on an increasingly nihilistic character, for example, in such groups as the Baader-

★(Star Print) 29-010

Meinhof Gang and the Japanese Red Army. The mounting evidence of international cooperation among diverse terrorist groups and increasing state support of international terrorism underscore the growing threat of international terrorism.

Although the United States has been relatively free of major incidents of international terrorism within its borders, it must prepare itself for this eventuality. The most careful study and concerted action are in order.

Action by the Select Committee on Intelligence

On December 7, 1977, S. 2236 was ordered to be referred sequentially to the Select Committee on Intelligence under the provisions of Senate Resolution 400. After being reported by the Committee on Governmental Affairs, the Committee on Commerce, Science and Transportation, and the Committee on Foreign Relations, the bill was referred to the Intelligence Committee on July 10, 1978, for a period of 30 days.

On July 25, 1978, the Senate Select Committee on Intelligence held a closed hearing on S. 2236 and received testimony from:

Ambassador Anthony Quainton, Director of the Office to Combat Terrorism, Department of State, and Chairman of the Interagency Working Group on Terrorism.

Frederick P. Hitz, Legislative Counsel to the Director of Central Intelligence, who was accompanied by other representatives of the intelligence community.

J. Robert McBrien, Special Assistant to the Secretary of the Treasury on Enforcement and Operations.

The following issues or concerns were highlighted at the hearing:

Ambassador Anthony Quainton, Chairman of the Interagency Working Group on Terrorism, stated that lines of operational authority within the Federal Government with respect to combating terrorism were clearer now than in the past. He did acknowledge that, to the best of his knowledge, there have been no interagency simulations or "antiterrorist games" which would further clarify lines of responsibility and authority.

The Ambassador pledged to encourage each of the 28 agencies which make up the Interagency Working Group to review S. 2525, the select committee's charter legislation, from the perspective of the bill's impact on the agency's antiterrorist capabilities.

The intelligence community witnesses and the representative of the Department of the Treasury were united in their deep concern about the absence in the bill of any requirements which would protect the security of classified information. They emphasized that the incident report and the U.S. capability report required by the bill could contain highly classified intelligence information including information regarding intelligence sources and methods. They felt strongly that any reports created under the terms of the bill which included intelligence information should be handled through the channels established by Congress for receiving and controlling access to such information; namely, through the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence. They stressed that only these committees possess secure storage facilities

commensurate with the sensitivity and fragility of the information the reports would contain.

The intelligence community witnesses also pointed out that because of the bill's reporting requirements, friendly foreign governments would be less likely to share information about terrorist groups unless they believed that the information they provided would be afforded appropriate security.

One witness said that if the bill caused any decrease in the sharing of information about terrorists between the United States and friendly foreign governments, it would result in a net loss in our antiterrorist capabilities.

Two witnesses suggested that the terrorist incident report required by the bill might, in fact, be an inducement to terrorists, many of whom perform their deeds for the sake of publicity. They said that a public report from the President of the United States to Congress would constitute significant publicity.

The Department of the Treasury witness stated that tagging explosives would provide the Government with "critical tools' in combating terrorism. Identification taggants are microscopic elements added to explosive material that after detonation will enable the explosive to be traced. Detection taggants would enable the presence of explosive material to be detected before detonation. According to the Treasury, technology for tagging programs, though not perfected, will permit tagging of all types of explosives by 1981. The Treasury admitted that tagging in itself would not end bombings. Indentification taggants will help solve some bombings, but not all. Detection taggants will not allow all planted bombs to be discovered before explosion. However, Treasury felt tagging would be a major advance in combating terrorism.

The Treasury Department witness supported reinsertion of a provision into the bill which would permit tagging black and smokeless powders once technology has advanced to the point where placing taggants in these powders would not affect their use in firearms. Under this proposal, powder in prepackaged ammunition would remain untagged because the small amounts of powder in ammunition would be impractical for use in bombs.

As written, the bill eliminates the tagging requirement for black and smokeless powders. According to testimony before this committee, if these powders were tagged, bombs using them could be traced to the production run in the factory where they were manufactured. The Treasury Department believes this additional intelligence information would help significantly in apprehending terrorists and other bombers, because while ordinarily used as propellants in firearms, black and smokeless powders are also the second most widely used type of explosive in illegal bombings in the United States. According to the Bureau of Alcohol, Tobacco and Firearms, 19.8 percent of all bombings in the United States in 1976 used black and smokeless powder. Bombs of this type caused 20 percent of the injuries and 12 percent of the deaths caused by bombings that year. The FBI estimates that 33 percent of terrorist bombings used these powders.

In addition to the security problems associated with the classified reports, the witnesses also argued that the quantity and frequency of

the reports required by the bill constituted an unnecessarily onerous burden. Each semiannual incident report, for example, would normally cover half of the 300 terrorist incidents which occur throughout the world each year. In 1976, 61 terrorist incidents involved U.S. citizens or U.S. property. The bill required that any incident involving U.S. citizens or significant interests or property of the United States be reported within 30 days. Intelligence community witnesses stated that, while the occurrence of the incident may be known rather quickly, it takes more than 30 days to collect, collate, and assess reports about it.

Additionally, the semiannual incident report, the semiannual report of states supporting international terrorism, and the biennial report on U.S. antiterrorist capabilities would require large numbers of intelligence officers to be engaged in report writing rather than intelligence collection and analysis.

Near the end of the hearing, one of the Senators called the committee's attention to problems associated with section 3(b). That section sets forth criteria for defining "state support of international terrorism." Under the bill, a state could be found to support international terrorism if it deliberately committed any one of five specific acts. The use of words and phrases such as "the likelihood that they would be used * * *," "direct financial support * * *," and "intended by those acts to aid and abet * * *" sets standards of evidence which the intelligence community witnesses admitted they would not normally be able to provide. An intelligence community representative stated that the definition is drawn so stringently that, theoretically, a U.S. official, if he so desired, could make a reasonable case to exclude even the most proterrorist state.

Comments

The Select Committee on Intelligence requested sequential jurisdiction to consider S. 2236 because the bill imposes certain tasks on the intelligence community. The committee has concerned itself with those aspects of the bill which relate directly to the responsibilities of the Government for the collection, analysis, production, and dissemination of intelligence information concerning international terrorism. During the past year, the committee has paid considerable attention to the challenges posed by international terrorism to the United States and to the U.S. responses to such challenges. The Subcommittee on Collection, Production and Quality, chaired by Senator Stevenson, has been conducting a thorough examination of the capabilities of our intelligence agencies in this field. That study will recommend improvements in the management, direction, and policies of the Government's counterterrorist activities.

Virtually every assessment of the problems of terrorism by experts within and without the Government has emphasized the importance of accurate, complete, and timely intelligence dealing with terrorist incidents. Strengthening the ability of our intelligence agencies to obtain necessary information, and to make that information available to all policy makers and Government agencies having the responsibility for protective measures, can make a significant contribution to our Nation's defense against terrorism.

The select committee has a continuing commitment to provide necessary legal authority and appropriate resources for the Government's counterterrorism intelligence operations. In the months ahead the committee will complete its work on charter legislation for the U.S. intelligence community, further clarifying the legal authority of our intelligence agencies. Additional proposals may be introduced in the next session upon the completion of the select committee's indepth inquiry into the counterterrorism intelligence capabilities of the United States.

It is with this background and perspective that the Select Committee on Intelligence has considered S. 2236. The amendments recommended in this bill are designed, in general, to insure that its provisions do not impair the effective performance of the responsibilities that the U.S. intelligence community must bear if the United States is to cope adequately with the challenges of international terrorism. The committee is reporting S. 2236, as further amended by the committee, without recommendation. If the Senate acts favorably upon S. 2236, the committee believes its amendments are necessary and appropriate to satisfy the objectives of the bill without unduly interfering with the ability of our intelligence agencies to discharge their central functions.

Among the more important concerns of the committee were the various reporting and listing requirements established by sections 4, 5, 6, 7, and 8 of the bill; the committee was anxious to insure that any highly sensitive information which might be reported to Congress pursuant to these sections be accorded adequate security. In the opinion of the select committee, this requires that the procedures established by Senate Resolution 400 in the Senate and by House Resolution 658 in the House of Representatives be invoked whenever classified intelligence information is involved in a report to Congress.

Section 3(a) of Senate Resolution 400 requires that all proposed legislation, messages, petitions, memorials, and other matters relating to the intelligence community, be referred to the Senate Select Committee on Intelligence. Nothing in Senate Resolution 400 is meant to be construed as prohibiting or restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee. Certain highly sensitive information requires very careful handling and Senate Resolution 400 sets conditions under which that information is to be shared. In all of its considerations and in its amendments to S. 2236, the Senate Select Committee on Intelligence does not wish to be interpreted as encouraging the classification of information which could be made available to Congress and the American people without damaging our intelligence capabilities in any way. Our sole concern is that appropriately classified intelligence information be protected through mechanisms already accepted by Congress. Similarly, the committee intends that nothing in S. 2236 or in the amendments proposed by this committee be interpreted in such a manner as to require even the classified reporting of specific sensitive sources or methods of intelligence unless such is required for a full and complete understanding of the event being reported.

The select committee was deeply concerned about the definition of "state support of international terrorism" as set forth in section 3(b) of the bill. It must be emphasized that, in determining whether the actions of a state meet the criteria of this definition, it would not be necessary to provide the sort of evidence which could obtain a guilty verdict in a court of law. It is not necessary to prove "beyond a reasonable doubt" that a state has supported terrorism. In particular, in proving that a state has acted "deliberately" or that it "intended" to aid or abet the commission of any act of international terrorism, reliance can be placed on circumstantial, as opposed to direct, evidence of the state's intention. Similarly, if a state supplies arms to a group which has carried out terrorist acts in the past, direct evidence would not be necessary to establish that the arms were given in the "likelihood" that they would be used in the commission of an act of international terrorism.

The definition of "state support of international terrorism" is a key to implementing sections 5 and 6 which require the listing of, and the imposing of sanctions on, states which "have demonstrated a pattern of support for acts of international terrorism." The drafters intended this definition to exclude from its coverage indirect or inadvertent support for acts of international terrorism or indiscriminate moral support for groups which espouse terrorist tactics.

In attempting, however, to restrict the applicability of the definition to those states which are directly and actively involved in the support of international terrorism, the definition imposes strict standards of proof that it may be very difficult for the intelligence community to meet. For example, the "deliberateness" of a state's actions will of necessity be judged from circumstantial evidence, often of fairly limited scope and low quality. There is little certainty that we would possess a source of intelligence with access to a state's leadership to tell us just what the leadership intended when it agreed to furnish arms, money, diplomatic facilities, et cetera; and if such a source did exist, it would of course be impossible to disclose publicly either its existence or any information it supplied which might suggest its existence.

Similarly, it will be difficult to establish the precise conditions under which arms, explosives, or lethal substances were furnished by a state to a terrorist group; consequently, the judgment of whether or not the "likelihood" existed that they would be used in the commission of a terrorist act would necessarily contain a subjective element.

The remaining clauses of the definition pose similar problems for the intelligence community. In each clause, state support is defined as providing a particular kind of support "for any act of international terrorism." If this is interpreted as requiring that the intelligence community demonstrate a direct connection between the actions of the state and a particular terrorist act, it may be that the available evidence will not be found equal to the task. Rather, the executive branch and Congress may only be able to obtain evidence that demonstrates a close connection between a state and a terrorist group but which may not illuminate the precise relationship between the state and the given terrorist act.

The American people and Congress have a right to know which states support individuals or groups who commit acts of international

terrorism by furnishing arms, explosives or lethal substances, providing training, money, cover, or diplomatic facilities, or by allowing their territory to be used as a sanctuary. The intelligence community is capable of providing some information on those matters with reasonable regularity. Of less material concern to Congress and the American people, at least for the purposes of this bill, is detailed information about the precise routes by which arms and money reach terrorists, and about the precise relationship between the terrorists and those who provide training camps for them, those who supply passports, and those who let them cross their countries' borders. The intelligence community often cannot provide such information.

The inherent subjectivity of the determinations which are required by the definition of state support has led some members of the select committee to fear that the determinations will be influenced unduly by foreign policy concerns independent of the available evidence. This development conceivably could lead to an arbitrary application of the sanctions and would deprive the list of moral authority. Since the public stigmatizing of a state as a supporter of international terrorism might be considered to be the strongest sanction available under the bill, it is of the utmost importance that the list not appear as being tailored to the particular foreign policy interests of a particular administration.

For this reason, some members of the select committee discussed the possibility of modifying the definition of "state support of international terrorism." These members agreed that those provisions which invite subjective application could be eliminated, without penalizing states whose inadvertent actions might have the effect of aiding terrorists. The standards as written require, in most cases, that a connection be made between specific actions of states and given acts of terrorism. The standards considered require only the existence of evidence showing that states cooperate with groups or individuals which commit acts of terrorism. The committee considered rewriting subsection (b) of section 3 as follows:

(b) "State support of international terrorism" shall consist of any of the following acts when committed by a state:

(1) Furnishing arms, explosives, or lethal substances to any individual, group, or organization which engages in acts of international terrorism;

(2) Directing, providing training for, or assisting any individual, group, or organization which plans or executes any act of international terrorism;

(3) Providing financial support for any individual, group, or organization which plans or executes any act of international terrorism;

(4) Providing diplomatic facilities which aid or abet the commission of any act of international terrorism; or

(5) Failing to permit the extradition or prosecution of any individual within its territory who has committed any act of international terrorism.

It was thought by some that this definition would allow for more objective determinations of which states belong on the list and, hence, would avoid the temptations to which decisionmakers faced with the necessity of making subjective decisions might succumb.

On the other hand, other members of the select committee felt that the definition as currently written more precisely denoted those countries which ought to be placed on the list and that the elements of deliberateness and intention were necessary in order to keep the list from becoming too inclusive.

An extensive list of states supporting international terrorism would require an excessive number of exemptions under section 6 of the bill and the effectiveness of the sanctions would be lost. These members, furthermore, felt that the flexibility inherent in the application of the current definition was appropriate and necessary for the successful conduct of foreign policy.

Given these conflicting points of view, and given the fact that the current definition had been laboriously negotiated between the Department of State and the Senate committees which have considered the bill previously, the select committee decided not to amend this definition. Individual members indicated, however, that they might attempt to do so during Senate consideration of the bill.

Some Senators voiced strong support for the taggant program and expressed belief in its efficacy. One Senator said this provision was the most important one in the bill. Others were concerned that the program would make little difference in combating terrorism; that the technology for tagging explosives was not yet adequate to warrant inclusion of a taggant program in the bill; that tagging explosives at the point of manufacture might lead to increased volatility of the explosives material, hence making reprocessing and handling more dangerous.

Senators had strong feelings both pro and con concerning the inclusion of taggants in black and smokeless powders. Some Senators questioned whether black powders and smokeless powders should be treated in the same manner.

International terrorism is a burgeoning phenomenon. We need to defend ourselves against it. The contribution this bill will make to combatting the terrorist threat remains to be seen. Certain provisions may enhance to some degree the Government's ability to persuade foreign countries to improve airport security and may aid in the identification of terrorists through tracing explosives used in bombings. The requirements for biennial reports to Congress on the organization of counterterrorist capabilities may stimulate the administration to greater efforts in this area. There are some risks in giving wide distribution to a detailed analysis of our vulnerabilities, but the amendments adopted by this committee are designed to minimize those risks where the information deals with sensitive intelligence sources and methods.

Section-by-Section Analysis

Section 4

This section of the bill provides for a comprehensive report on all acts of international terrorism, detailing the nature of the incident, the identity of the participants, the extent of state support of the act, and the U.S. response. The committee has amended this section in four respects:

1. The earlier draft required that each incident involving U.S. interest be reported to Congress not later than 30 days after it occurred.

Since specific intelligence information of the kind required by this section is not available immediately and since it often takes several months for a complete and meaningful picture of what took place to be collected, analyzed, and produced, the committee felt it would be more reasonable to allow 90 days after each incident to file a report. It therefore amended this provision of the bill (section 4(a)) to allow a 90-day reporting period.

2. The committee decided to require an annual rather than a semiannual incident report. Since the data for these reports is drawn in large part from the intelligence community, and since the analytical manpower and resources devoted to antiterrorism in the intelligence community are limited, it was the belief of the committee that the intelligence community's larger antiterrorism effort would be better served if there were one yearly report of this nature rather than two. Accordingly, the committee amended section 4(a) to require annual reports.

3. The original bill requires reports on all incidents of international terrorism. Given the large number of such incidents which occur each year, and given the specificity required of the individual reports, this would represent an unreasonable and unnecessary drain on the antiterrorist resources of the intelligence community. The committee has therefore amended the bill to require full reports only on those incidents of international terrorism "which affect citizens or significant interest or property of the United States," or which are otherwise "significant terrorist acts." "Significant terrorist acts" would include terrorist acts which are targeted against foreign leaders or which threaten severely the political stability of a foreign government, incidents which incorporate significant new terrorist tactics or weapons, incidents or attempted incidents of mass destruction, and incidents which point clearly to the complicity of foreign governments in international terrorism. Other international terrorist incidents of lesser significance should be identified in a way which will allow further research if such is desired. A series of related terrorist acts may be summarized in a single section of the report.

4. In light of intelligence community testimony at the committee hearing, the committee believes that the provisions of the bill must be strengthened to allow for secure reception, storage, and dissemination of classified intelligence information. Intelligence community representatives emphasized that the incident report required by the bill would most likely contain highly classified intelligence information including information about sources and methods. The committee believes that all intelligence information reported pursuant to the requirements of the bill should be handled through the secure channels established by Congress for receiving and controlling access to such information, namely, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence. Only these committees possess secure storage facilities commensurate with the sensitivity and fragility of the information the report may contain. The committee, therefore, amends the bill to require that all classified intelligence information "be held for Congress" by the House and Senate Intelligence Committees. It is the understanding of the committee that this shall be carried out in accordance with

the terms set forth in Senate Resolution 400, 94th Congress, and in House Resolution 658, 95th Congress, governing the reception, storage, and dissemination of classified intelligence information.

Section 5

This section of the bill requires a semiannual list of all states which have demonstrated a pattern of support for acts of international terrorism. In addition to supplying the list, the President must submit his reasons for including each state on the list. The committee has amended the bill language in two respects:

1. The committee has changed what was a semiannual report to an annual report. Reducing the frequency of this list will lessen the drain on the intelligence community's antiterrorist resources. The committee has also inserted a provision which will allow the President the flexibility of including an additional state on the list at any time. This would permit the emergency inclusion of a state should it openly support an act of terrorism of such a blatant nature that it would be unwise to delay inclusion of that state until such a time as a new annual list was prepared. The committee did not feel it was necessary to specify in the amendment a means through which the President could remove a state from this list since both section 5(e) and the annual redoing of the list provide an opportunity to remove a State from the list.

It is the understanding of the committee that, while the President's statement of reasons for including a country on the list should be clear and complete, it need not present all the detailed evidence that went into the determination. Should such detailed information become necessary, it would always be readily available upon request.

2. The committee also amended section 5 to strengthen its provisions for handling classified intelligence information in a secure manner. The reasons for doing this are outlined in the committee's comments on section 4.

Section 6

The select committee made two amendments to section 6. First, it rewrote section 6(a)(3) in order to include a clearer definition of the sorts of commodities and technical data which are not to be exported to states supporting international terrorism. Second, it added a new paragraph, 6(b)(2), to enable the President to submit a classified report justifying his suspension of any of the prohibitions listed in section 6(a), should such be necessary.

The new language of 6(a)(3) deletes the term "potential military application" which was thought to be too vague to provide clear guidance to the executive branch. The new language prohibits the export of any commodities or technical data which enhance either the government's military potential or its ability to support acts of international terrorism. This prohibition includes all lethal equipment and any logistic equipment (such as trucks, helicopters, fixed-wing airplanes, or ships) which would contribute materially to the ability of the government to conduct military operations or to support acts of international terrorism. Furthermore, the export of any commodities or technical data is prohibited even if similar commodities would be available to that government from other suppliers. The new language

does not include items (for example, food or medicine) which might be said to have potential military application but which do not enhance the state's military potential.

The new paragraph 6(b)(2) enables the President to make a classified report of his reasons for suspending the sanctions in a particular case. If the classified report contains intelligence information, it will be held for Congress by the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence in accordance with the applicable rules of each House.

There are several circumstances which might give rise to the need for a classified report. The nature of the "other national interests" of the United States, which the President is to take into consideration in determining whether sanctions might be suspended, may be such that an unclassified report about them would be limited in what it could say. Of course, as much information as possible should be included in the unclassified summary and presented to the President pro tempore of the Senate and the Speaker of the House; but Congress should not be limited in what it receives from the President solely to that which can be contained in an unclassified report.

In addition, there may be sensitive intelligence information available to the President which suggests that a state on the list of those supporting international terrorism has made some adjustments in its policy. While these adjustments may not be so great as to enable the President to propose removing the state from the list, he may nevertheless wish to reward the forces behind those adjustments by making some exceptions to the sanctions. In cases of "signaling" of this sort, it is envisioned that the President might wish to relax the sanctions with respect to nonlethal equipment. Since the sources of the information on which the President might be acting could be quite sensitive, and since the information itself, if made public, might bring to an end the favorable processes taking place in the state, the reasons for the President's actions could be submitted in a classified intelligence report.

Section 7

This section calls for a very extensive report of U.S. capabilities to be made biennially. Since it was the desire of the drafters of this bill to allow the Committee on Governmental Affairs to assess the effectiveness of any Government reorganization or efforts to enhance its ability to combat international terrorism, they required this extensive report. They did not mean that this obligation should exist in perpetuity. Therefore, the select committee has added a sunset clause to this section, the effect of which will be to terminate this reporting requirement after the fifth such report. These first few reports could be very helpful in assessing the effectiveness of U.S. policies to combat international terrorism; there is, however, no need to carry on this requirement indefinitely.

Although these reports are to be comprehensive, they need not indicate specific deficiencies of particular U.S. installations.

The select committee has also inserted language in this section similar to that introduced in sections 4, 5, and 6, which will allow for the more secure handling of any classified intelligence information which might be generated under the requirements of this section of the bill.

Section 8

This section requires a semiannual report to Congress concerning the security of foreign airports based on assessments made by the Secretary of Transportation. To the extent possible, this report should avoid classified information by summarizing the detailed assessments required by subsection (a). However, the select committee has amended this section to allow for the submission of a classified report should that prove necessary. In no case should the report describe specific vulnerabilities of foreign airports.

To produce these assessments, the cooperation of foreigns will be necessary. If foreign governments thought that the United States would publish the details of its inquiries, they would be reluctant to furnish us with data on their airports' security. In this connection, it should be noted that information supplied to this Government by a foreign government which is considered classified by the foreign government is classifiable according to paragraph 1-301(b) of Executive Order 12065 on national security information. The detailed assessments referred to in subsection (a) of this section of this bill will most likely be classifiable on this ground and, hence, not subject to release by means of freedom of information requests.

In any case, it is not envisaged that any detailed intelligence information which might be helpful to a potential terrorist will be released publicly in accordance with this section. Any classified intelligence information will be held for Congress by the two Intelligence Committees in accordance with the rules of each House.

Section 12

Various agencies of the U.S. Government concerned with national security may have need of untagged explosives from time to time. This committee has decided to allow the President to designate persons other than the Secretary of Defense to exempt explosive materials from the provisions of section 12 of this bill should such be necessary.

BUDGETARY IMPACT STATEMENT AND COST ESTIMATE

The Senate Select Committee on Intelligence has been provided with the following information on the budget impact of the bill and the cost estimate by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

AUGUST 9, 1978.

1. Bill number: S. 2236.
2. Bill title: An Act to Combat International Terrorism.
3. Bill status: As ordered reported by the Senate Select Committee on Intelligence, August 9, 1978.
4. Bill purpose: The purpose of this legislation is to strengthen federal capabilities in countering acts of international terrorism. The Secretary of State is to report to Congress on any incidents of international terrorism, and on any states which have demonstrated a pattern of support for such acts. When a foreign government is listed in the report, the President is directed to withhold foreign assistance and

duty-free treatment, and is not allowed to authorize any sale, credit or guaranty with respect to defense articles or services, or approve any export licenses for commodities or technical data which could potentially have a military application. The Secretary of Transportation is directed by this legislation to assess the effectiveness of security measures maintained at certain foreign airports, and report the findings to Congress. The Secretary is also authorized to provide technical assistance to foreign governments concerning aviation security. The Federal Aviation Act of 1958 is amended to require that the Secretary of Transportation extend security measures to charter operations. The bill also requires that certain identification and detection taggants are to be contained in any explosive materials manufactured, shipped, distributed, received, sold, disposed of, or imported. The legislation clarifies what type of nuclear material information may be kept classified by the Nuclear Regulatory Commission.

5. Cost estimate:

[In millions of dollars]

Authorization level:[1]	
Fiscal Year:	
1979	-----
1980	0.1
1981	.1
1982	.1
1983	-----
Estimated costs:	
Fiscal Year:	
1979	1.9
1980	2.3
1981	2.5
1982	2.6
1983	2.5

[1] Does not include sums for required activities of the Department of Transportation and the Department of the Treasury, for which no specific authorization is provided in the bill.

6. Basis of estimate: For the purpose of this estimate, an enactment date of October 1, 1978, has been assumed. The provision of this legislation determined to have the greatest impact on costs is the requirement that the Department of Transportation (DOT) assess the effectiveness of security measures mantained in certain foreign airports. Based on information obtained from DOT, it is estimated that the cost of inspecting the approximately 170 airports involved would be $1.4 million per year. In order to insure compliance by charter airlines of the security requirements, it is estimated that the cost to DOT for the additional inspections would be approximately $0.4 million each year. Any increases in the costs of these two activities due to inflation are expected to be offset by the need for fewer inspections each year as it is determined that adequate security measures are being taken. The $100,000 authorized for each of the fiscal years 1980, 1981, and 1982 for aviation security assistance to foreign governments is assumed to be fully appropriated each year, and is expected to be spent at a rate of 80 percent in the first year and 20 percent in the second. Based on information obtained from the Department of the Treasury, regulation and enforcement of the detection and identification taggants will

cost approximately $0.1 million in fiscal year 1979, increasing to $0.4 million in 1980, $0.6 million in 1981, $0.7 million in 1982, and $0.7 million in 1983.

The other provisions of this legislation, such as the reporting requirements by the Department of State, are not expected to have a significant impact on costs.

7. Estimate comparison: None.

8. Previous CBO estimate: CBO has prepared two previous cost estimates on S. 2236—the first on May 18, 1978, for the version of the bill as reported by the Senate Committee on Governmental Affairs, and the second on June 7, 1978, as reported by the Senate Committee on Foreign Relations. The estimated costs are the same for all versions.

9. Estimate prepared by: Kathy Weiss.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Buudget Analysis.

EVALUATION OF REGULATORY IMPACT

In accordance with rule XXIX of the Standing Rules of the Senate, the Senate Select Committee on Intelligence has evaluated the regulatory impact of this legislation and the committee's amendments to the legislation as reported by the Committees on Governmental Affairs, Foreign Relations, and Commerce, Science and Transportation.

The amendments adopted by this committee will have no appreciable effect on the regulatory impact of the bill and the report of the Committee on Governmental Affairs evaluation contained in Senate Report No. 95–908.

CHANGES IN EXISTING LAW

In compliance with section 4 of rule XXIX of the Standing Rules of the Senate, change in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman).

TITLE 18—UNITED STATES CODE—CRIMES AND CRIMINAL PROCEDURE

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Chapter 2.—AIRCRAFT AND MOTOR VEHICLES

SEC. 31 * * *

* * * * * * *

32A. Offenses in violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

* * * * * * *

36. Imparting or conveying threats.

* * * * * * *

§ 31. Definitions.

When used in this chapter the term—

"Aircraft engine", "air navigation facility", "appliance", "civil aircraft", "foreign air commerce", "interstate air commerce", "landing area", "overseas air commerce", "propeller", and "spare part" shall have the meaning ascribed to those terms in the [Civil Aeronautics Act of 1938,] *Federal Aviation Act of 1958* as amended.

* * * * * * *

"Destructive substance" means any explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature; [and]

"Used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit[.];

"In flight" means any time from the moment all the external doors of an aircraft are closed following embarkation until the monment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property aboard; and

"In service" means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.

§ 32. Destruction of aircraft or aircraft facilities

[Whoever willfully sets fire to, damages, destroys, disables, or wrecks any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce; or

[Whoever willfully sets fire to, damages, destroys, disables, or wrecks any aircraft engine, propeller, appliance, or spare part with intent to damage, destroy, disable, or wreck any such aircraft; or

[Whoever, with like intent, willfully places or causes to be placed any destructive substance in, upon, or in proximity to any such aircraft, or any aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, or other material used or intended to be used in connection with the operation of any such aircraft, or any cargo carried or intended to be carried on any such aircraft, or otherwise makes or causes to be made any such aircraft, aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, or other material unworkable or unusable or hazardous to work or use; or

[Whoever, with like intent, willfully sets fire to, damages, destroys, disables, or wrecks, or places or causes to be placed any destructive substance in, upon, or in proximity to any shop, supply, structure, station, depot, terminal, hangar, ramp, landing area, air-navigation facility or other facility, warehouse, property, machine, or apparatus used or intended to be used in connection with the operation, loading, or unloading of any such aircraft or making any such aircraft ready for flight, or otherwise makes or causes to be made any such shop,

supply, structure, station, depot, terminal, hangar, ramp, landing area, air-navigation facility or other facility, warehouse, property, machine, or apparatus unworkable or unusuable or hazardous to work or use; or

[Whoever, with like intent, willfully incapacitates any member of the crew of any such aircraft; or

[Whoever willfully attempts to do any of the aforesaid acts or things—

[shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.]

Whoever willfully sets fire to, damages, destroys, disables, or interferes with the operation of, or makes unsuitable for use any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce; or willfully places a destructive substance in, upon, or in proximity to any such aircraft which is likely to damage, destroy, or disable any such aircraft, or any part or other material used, or intended to be used, in connection with the operation of such aircraft; or willfully sets fire to, damages, or disables any air navigation facility or interferes with the operation of such air navigation facility, if any such act is likely to endanger the safety of such aircraft in flight; or

Whoever, with intent to damage, destroy, or disable any such aircraft, willfully sets fire to, damages, destroys, or disables or places a destructive substance in, upon, or in the proximity of any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility, or other material used, or intended to be used, in connection with the operation, maintenance, or loading or unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft; or

Whoever willfully performs an act of violence against or incapacitates any passenger or member of the crew of any such aircraft if such act of violence or incapacitation is likely to endanger the safety of such aircraft in service; or

Whoever willfully communicates information, which he knows to be false, thereby endangering the safety of any such aircraft while in flight; or

Whoever willfully attempts to do any of the aforesaid acts—shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.

Sec. 32A. Offenses in violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation

"(a) Whoever commits an offense as defined in subsection (b) against or on board an aircraft registered in a state other than the United States and is afterward found in this country—shall be fined not more than $10,000 or imprisoned not more than twenty years, or both.

"(b) For purposes of this section a person commits an 'offense' when he willfully—

"(1) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

"(2) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

"(3) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

"(4) attempts to commit, or is an accomplice of a person who commits or attempts to commit, an offense enumerated in this subsection.".

* * * * * * *

Sec. 36. Imparting or conveying threats

(a) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 or 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title with an apparent determination and will to carry the threat into execution shall be fined not more than $5,000 or imprisoned not more than five years, or both.

Chapter 40.—IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

Sec. 841. Definitions

As used in this chapter—

(a) * * *

* * * * * * *

(o) "Identification taggant" means any substance which (1) is added to an explosive material during the manufacture of such material and (2) is retrievable after detonation and permits the identification of the manufacturer, the date of manufacture of such material, and provides such other information as determined by the Secretary of the Treasury.

(p) "Detective taggant" means any substance which (1) is added to an explosive material during the manufacture of such material, and (2) permits detection of such material prior to its detonation.

* * * * * * *

Sec. 842. Unlawful acts

(a) * * *

* * * * * * *

(l) One year after the date of the enactment of this Act, it shall be unlawful for any person or persons to manufacture any explosive material which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(m) Two years after the date of the enactment of this Act, it shall be unlawful for any person or persons to manufacture any explosive material which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(n) Two years after the date of the enactment of this Act, it shall be unlawful for any person or persons to transport, ship,

distribute, or receive, or cause to be transported, shipped, distributed or received, in interstate or foreign commerce any explosive material which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(o) Three years after the date of the enactment of this Act, it shall be unlawful for any person or persons to transport, ship, distribute, or receive, or cause to be transported, shipped, distributed, or received, in interstate or foreign commerce any explosive material which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(p) One year after the date of the enactment of this Act, it shall be unlawful for any person or persons to import any explosive material which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847;

(q) Two years after the date of the enactment of this Act, it shall be unlawful for any person or persons to import any explosive material which does not contain a detection taggant which satisfies the standard promulgated by the Secretary as provided in section 847.

(r) Two years after the date of the enactment of this Act, it shall be unlawful for any person to resell or otherwise dispose of any explosive material sold as surplus by a military or naval service or other agency of the United States which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847. The shipment of surplus explosive materials from the military establishment where sold to the purchaser's place of business shall be in accordance with regulations promulgated by the Secretary.

(s) Three years after the date of the enactment of this Act, it shall be unlawful for any person to resell or otherwise dispose of any explosive material sold as surplus by a military or naval service or other agency of the United States which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847. The shipment of surplus explosive materials from the military establishment where sold to the purchaser's place of business shall be in accordance with regulations promulgated by the Secretary.

(t) The Secretary shall by regulation defer one or more of the time periods specified in paragraphs [1] *l through* [8] *s by extensions of not more than one year at a time until he is satisfied that taggants: are available in sufficient quantity for commercial purposes; will not impair the quality of the explosive materials for their use; are not unsafe; or will not adversely affect the environment. The Secretary shall inform the Congress sixty days prior to each extension, specifying the reasons for such extensions, and estimating the time he expects the provisions of this section will become effective.*

(u) Black and smokeless powders, used as propellant powders, shall be excluded from the provisions of this Section.

(v) The requirements of paragraphs (l) through (q) of this subsection shall not apply to any explosive material designated by the President or [Secretary of Defense] *his designee as*

an explosive material to be used by the Department of Defense or another agency of Government for national defense or international security purposes. Any explosive material so designated shall be reported promptly to the Secretary of the Treasury.

* * * * * * *

Sec. 844. Penalties

(a)*(1)* Any person who violates subsections (a) through (i) of section 842 of this chapter shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

(2) Any person who violates subsection (1) of section 842 of this chapter shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

* * * * * * *

Sec. 845. Exceptions; relief from disabilities

(a) Except in the case of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, this chapter shall not apply to:

(1) * * *

* * * * * * *

(5) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in section 921(a)(16) of title 18 of the United States Code, or in antique devices as exempted from the term "destructive device" in section 921(a)(4) of title 18 of the United States Code; [and]

(6) the manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of the United States[.]*; and*

(7) the provisions of subsection (1) of section 842 of this title shall apply to paragraphs (4) and (5) of this subsection.

TITLE 28—UNITED STATES CODE—JUDICIARY AND JUDICIAL PROCEDURE

Chapter 87.—DISTRICT COURTS; VENUE

* * * * * * *

Sec. 1395. Fine, penalty or forfeiture

(a) A civil proceeding for the recovery of a pecuniary fine, penalty or forfeiture may be prosecuted in the district where it accrues or the defendant is [found.] *found and in any proceeding to recover a civil penalty under section 35(a) of title 18 of the United States Code or section 901(c) or 901(d) of the Federal Aviation Act of 1958, all process*

against any defendant or witness, otherwise not authorized under the Federal Rules of Civil Procedures, may be served in any judicial district of the United States upon an ex parte order for good cause shown.

FEDERAL AVIATION ACT OF 1958, AMENDMENTS
PUBLIC LAW 93-366

AN ACT to amend the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to provide a more effective program to prevent aircraft piracy; and for other purposes

TITLE I—ANTIHIJACKING ACT OF 1974

SEC. 101. * * *

* * * * * * *

SEC. 106. Title XI of such Act (49 U.S.C. 1501-1513) is amended by adding at the end thereof the following new sections:

* * * * * * *

[''SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

[''SEC. 1115. (a) Not later than 30 days after the date of enactment of this section, the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, of the provisions of subsection (b) of this section.

[''(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation.'']

SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

SEC. 1115. (a) The Secretary of Transportation shall conduct at such intervals as the Secretary shall deem necessary an assessment of the effectiveness of the security measures maintained at those foreign airports serving United States carriers, those foreign airports from which

foreign air carriers serve the United States, and at such other foreign airports as the Secretary may deem appropriate. Such assessments shall be made by the Secretary in consultation with the appropriate aeronautic authorities of the concerned foreign government. The assessment shall determine the extent to which an airport effectively maintains and administers security measures. The criteria utilized by the Secretary in assessing the effectiveness of security at United States airports shall be considered in making such assessments and shall be equal to or above the standards established pursuant to the Convention on International Civil Aviation. The assessment shall include consideration of specific security programs and techniques, including but not limited to, physical and personnel security programs and procedures, passenger security and baggage examination, the use of electronic, mechanical or other detection devices, airport police add security forces, and control of unauthorized access to the airport aircraft, airport perimeter, passenger boarding, and cargo, storage, and handling areas.

(b) The report to the Congress required by section 315 of this Act shall contain:

(1) A summary of those assessments conducted pursuant to subsection (a) of this section. The summary shall identify the airports assessed and describe any significant deficiencies and actions taken or recommended.

(2) A description of the extent if any to which specific deficiencies previously identified, if any, have been eliminated.

(c) When the Secretary finds that an airport does not maintain and administer effective security measures at the level of effectiveness specified in subsection (a) of this section, he shall notify the appropriate authorities of such foreign government of his finding, and recommend the steps necessary to bring the security measures in use at that airport to the acceptable level of effectiveness.

(d)(1) Not later than sixty days after the notification required in subsection (c) of this section and upon a determination by the Secretary that the foreign government has failed to bring the security measures at the identified airport to the level of effectiveness specified in subsection (a) of this section, he—

(A) shall publish in the Federal Register and cause to be posted and prominently displayed at all United States airports regularly serving scheduled air carrier operations the identification of such airport; and

(B) after consultation with the appropriate aeronautical authorities of such government and, notwithstanding section 1102 of this Act, may, with the approval of the Secretary of State, withhold, revoke, or impose conditions on the operating authority of any carrier or foreign air carrier to engage in foreign air transportation utilizing that airport.

(2) The Secretary shall promptly report to the Congress any action taken under this subsection setting forth information concerning the attempts he has made to secure the cooperation of the nation in attaining the acceptable level of effectiveness.

(e) Nothing in this section is intended to require the public disclosure of information that is properly classified under criteria established by Executive Order or is otherwise protected by law. Such information shall be provided to the President pro tempore of the

Senate and to the Speaker of the House of Representatives in a written classified report. Any intelligence information classified by Executive Order or otherwise protected by law and furnished to Congress under this section shall be held for the Senate by the Select Committee on Intelligence of the Senate and held for the House of Representatives by the Permanent Select Committee on Intelligence of the House of Representatives. In any such case where such information is furnished to Congress, an unclassified summary of such information shall be prepared and submitted to the President pro tempore of the Senate and the Speaker of the House of Representatives.

* * * * * * *

TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1974

SEC. 201. * * *

SEC. 206. Title III of the Federal Aviation Act of 1958 (49 U.S.C. 1345–1355), relating to organization of the Federal Aviation Administration and the powers and duties of the Administrator, is amended by adding at the end thereof the following new sections:

"SCREENING OF PASSENGERS

SEC. 315. (a) * * *

"EXEMPTION AUTHORITY

"(b) The Administrator may exempt from the provisions of this section, in whole or in part, air transportation operations, other than those scheduled *or charter* passenger operations performed by air carriers engaging in interstate, overseas, or foreign air transportation under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of this Act or under a foreign air carrier permit issued by the Board under section 402 of this Act."

* * * * * * *

TITLE 49—UNITED STATES CODE—TRANSPORTATION

Chapter 20.—FEDERAL AVIATION PROGRAM

Subchapter I—General Provisions

Sec. 1301. Definitions

As used in this chapter, unless the context otherwise requires—

(22) * * *

* * * * * * *

(34) The term "special aircraft jurisdiction of the United States" includes—

(a) * * *

* * * * * * *

(d) any other aircraft outside the United States—

(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; [or]

(ii) having "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; [and] *or*

"(iii) regarding which an offense as defined in subsection (d) or (e) of article I, section I of the (Montreal) Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation is committed, provided the aircraft lands in the United States with an alleged offender still on board; and".

Subchapter IX.—Penalties

Sec. 1471. Civil penalties; compromise; liens

(a) * * *

* * * * * * *

(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this Act, shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States.

(d) Except for law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required within their official capacities to carry arms, or other persons who may be so authorized under regulations issued by the Administrator, whoever, while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States.

Sec. 1472. Criminal penalties

(a) * * *

* * * * * * *

CERTAIN CRIMES ABOARD AIRCRAFT IN FLIGHT

(k)(1) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, commits an act which, if committed within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of Title 18, would be in violation of section 113, 114, 661, 662, 1111, 1112, 1113, 2031, 2032, or 2111 of such Title 18 shall be punished as provided therein.

(2) Whoever, while aboard an aircraft within the special aircraft jurisdiction of the United States, commits an act, which, if committed

in the District of Columbia would be in violation of section 9 of the Act entitled "An Act for the preservation of public peace and the protection of property within the District of Columbia", approved July 29, 1892, as amended (D.C. Code, sec. 22–1112), shall be punished as provided therein.

(3) Whoever while aboard an aircraft in the special aircraft jurisdiction of the United States commits an act which would be an offense under section 32 of title 18, United States Code, shall be punished as provided therein.

* * * * * * *

[FALSE INFORMATION

[(m)(1) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (*l*) of this section, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

[(2) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (*l*) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both.]

FALSE INFORMATION AND THREATS

(m)(1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), or (l)(1) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

(2) Whoever, imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), or (l)(2) of this section, with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

* * * * * * *

Chapter 20.—FEDERAL AVIATION PROGRAM—Contents

Subchapter I * * *

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Subchapter IX.—Penalties

Sec. 1472. Criminal penalties

(a) * * *

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[(m) False information]
(m) *False information and threats.*

* * * * * * *

Sec. 1473. Venue and prosecution of offenses; procedures in respect of civil and aircraft piracy penalties

(a) * * *
(b)(1) Any civil penalty imposed under this chapter may be collected by proceedings in personam against the person subject to the penalty and, in case the penalty is a lien, by proceedings in rem against the aircraft, or by either method alone. [Such] *Except with respect to civil penalties under section 901 (c) and (d) of this Act, such* proceedings shall conform as nearly as may be to civil suits in admiralty, except that either party may demand trail by jury of any issue of fact, if the value in controversy exceeds $20, and the facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that is a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States shall not be held in any way limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty.

THE ATOMIC ENERGY ACT OF 1954

Public Law 83-703 (68 Stat. 9190)

* * * * * * *

Chapter 12.—CONTROL OF INFORMATION

Sec. 141. Policy

* * * * * * *

"SEC. 147. NUCLEAR MATERIAL SECURITY INFORMATION.—

"a. In addition to any other authority or requirement regarding protection or disclosure of information and notwithstanding section 552 of title 5, United States Code, relating to the availability of records, the Commission shall prescribe such regulations and orders as it may deem necessary to prohibit the unauthorized disclosure of nuclear material security information, by whomever possessed, whose unauthorized disclosure the Commission determines could substantially facilitate, in transit or at fixed sites as the case may be, the theft or diversion of plutonium, uranium-233, uranium enriched to greater than 20 percent in the isotope 235, or any other special nuclear material determined by the Commission to be readily usable as the fissionable component of a nuclear explosive device so as to endanger the common defense and security or the public health and safety.

"b. For the purposes of this section the term 'nuclear material security information' means:

"(1) information identifying a licensee's or applicant's detailed material control and accounting procedures for, or measures for the physical protection of, plutonium, uranium-233, or uranium enriched to greater than 20 percent in the isotope 235, or any other special nuclear material determined by the Commission to be readily

best copy available

usable as the fissionable component of a nuclear explosive device including (A) information identifying aspects of facility design, but only if such aspects of facility design are directly and predominantly related to the foregoing procedures and measures, and (B) information identifying inventory differences of such material, but only for a period of six months after such information is compiled or for any longer period of active, ongoing investigation by any duly authorized agency or department of the United States Government; and

"(2) any studies reports, or analyses concerning the protection of nuclear materials against theft or diversion whose disclosure could reasonably be expected to have a direct and significant adverse impact on the effectiveness of the material control and accounting procedures or physical protection measures of licensees for plutonium, uranium-233, uranium enriched to greater than 20 percent in the isotope 235, or any other special nuclear material determined by the Commission to be readily usable as the fissionable component of a nuclear explosive device.

"c. The Commission shall exercise the authority herein conferred so as to apply the minimum restriction on the disclosure of such nuclear material security information to the public, consistent with the objectives of this section. Any person who violates any provision of this section or rule regulation promulgated thereunder, shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized Committees of the Congress.

"d. The Commission is authorized to prescribe such regulations or orders as it may deem necessary to ensure that information which is protected from unauthorized disclosure under this section shall be disclosed only to persons as to whom the Commission shall have determined that permitting each such person access to such information will not substantially facilitate the theft or diversion of plutonium uranium 233, uranium enriched to greater than 20 percent in the isotope 235, or any other special nuclear material determined by the Commission to be readily usable as the fissionable component of a nuclear explosive device. In support of the foregoing determination, such persons may be investigated under standards and specifications established by the Commission: Provided, That any such standards and specifications shall be no more stringent than those established by the Commission pursuant to section 161i(2) of this Act for the investigation of persons engaged in activities involving special nuclear material: And provided further, That the Commission shall exercise the authority conferred herein to the minimum extent necessary to permit the foregoing determination".

* * * * * * *

Chapter 16.—JUDICIAL REVIEW AND ADMINISTRATIVE PROCEDURE

"SEC. 181. GENERAL.—The provisions of the Administrative Procedure Act (Public Law 404, Seventy-ninth Congress, approved June 11, 1946) shall apply to all agency action taken under this Act, and the terms 'agency' and 'agency action' shall have the meaning specified in the Administration Procedure Act: *Provided, however,* That in the case of agency proceedings or actions which involve Restricted

Data [or], defense information, *or nuclear material security information protected from disclosure under section 147 of this Act*, the Commission shall provide by regulation for such parallel procedures as will effectively safeguard and prevent disclosure of Restricted Data [or], defense information, *or such protected nuclear material security information* to unauthorized persons with minimum impairment of the procedural rights which would be available if Restricted Data [or], defense information, *or such protected nuclear material security information* were not involved.

* * * * * * *

Chapter 18.—ENFORCEMENT

* * * * * * *

"SEC. 223. VIOLATION OF SECTIONS GENERALLY.—Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this Act for which no criminal penalty is specifically provided or of any regulation or order prescribed or issued under section 65 or subsections 161 b., i., or o, *or subsection 147a.* shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than $20,000 or by imprisonment for not more than twenty years, or both.

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Calendar No. 1002

95TH CONGRESS, 2d Session } SENATE { REPORT No. 95-1080

AMENDING SUBCHAPTER III OF CHAPTER 83 OF TITLE 5, UNITED STATES CODE

AUGUST 10 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. SASSER, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany H.R. 4319]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 4319) to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is in the nature of a substitute.

PURPOSE

The purpose of H.R. 4319, as amended, is to reduce from 12 to 5 years the length of service required by a retiring employee to retain his group life insurance and health benefits coverages during retirement.

COMMITTEE ACTION

Hearings on H.R. 4319 were conducted by the Subcommittee on Civil Service and General Services on May 17, 1978. Testimony was received from Hon. Gladys Spellman, U.S. Representative of Maryland, and Mr. Thomas Tinsley, Director, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission. Neither testified in opposition to the bill.

Thereafter, the subcommittee on July 12, 1978, recommended favorable action on the bill, as amended.

The provisions of H.R. 4319, as amended by the committee, reflect two basic changes in the legislation as it was passed by the House of Representatives. First, it will become effective immediately upon enactment. Second, the committee amended the legislation relating to life insurance to make it conform with the Commission's proposal to revise the Federal Employees' Group Life Insurance law, chapter 87 of title 5, United States Code. Both changes were recommended to the committee by the Civil Service Commission.

Regarding the effective date, as pointed out by the Commission, the effective date of the legislation was originally set 5 years in the future (1982) primarily because of the provision for mandatory separation at age 70 after 5 years of service. However, since elimination of age 70 mandatory retirement was being considered and has since been enacted as Public Law 95–256, the House deleted that provision from the bill but they did not change the effective date of the health benefits and life insurance provisions. The Commission also stated that "because the additional cost would be minimal, the Commission recommends that it become effective upon enactment."

On April 20, 1978, the Civil Service Commission submitted a proposal to the Congress to amend the Federal Employees' Group Life Insurance (FEGLI) Law. The proposed in part provides for the continuation into retirement of both regular and optimal life insurance after 5 years of participation. The Civil Service Commission in order to avoid conflict recommended to the committtee that H.R. 4319 be amended to conform with the Commission's proposal. As a result, the legislation as amended will permit all insured employees who retire on immediate annuity, or become entitled to receive workmen's compensation under 5 U.S.C., chapter 81 and are determined by the Department of Labor to be unable to return to duty, to continue optimal and/or regular FEGLI life insurance if they have been insured for such coverage for a minimum of 5 years or from the first opportunity to elect coverage, if less than 5 years.

Background

The Federal Employees' Group Life Insurance law (section 8706(b) of title 5, United States Code) and the Federal Employees' Health Benefits law (section 8901(3)(A) of title 5, United States Code) provide for the retention of life and health insurance coverage after an employee's retirement on an immediate annuity, either on disability or after having completed at least 12 years of creditable service. The committee believes that, in light of the fact that an employee has vested rights under the civil service retirement system after 5 years of creditable civilian service, the 12-year service requirement for retention of health and life insurance benefits during retirement no longer can be justified and that it unduly discriminates against many employees.

Section-by-Section Anaylsis

SECTION 1

Subsection (a) of the bill, as amended, amends section 8706(b) of title 5, United States Code, to provide that life insurance coverage of an employee who retires after the date of enactment of this bill, on an immediate annuity may be continued if he has completed at least 5 years of creditable civilian service.

Subsections (b) and (c) make technical changes to Chapter 87 of title 5, United States Code.

SECTION 2

Amends section 8901(3)(A) of title 5, United States Code, to provide that for health insurance purposes an "annuitant" is an employee who retires after the date of enactment of this bill on an immediate annuity after having completed 5 years of service.

Evaluation of Regulatory, Paperwork, and Privacy Impact

The committee anticipates that this legislation will have no adverse impact upon regulatory function, paperwork, or the privacy of individuals.

Estimated Cost

Set forth below is a statement furnished by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., August 7, 1978.

Hon. Abraham Ribicoff,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 4319, an act to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes, as ordered reported by the Senate Committee on Governmental Affairs, July 24, 1978.

Enactment of H.R. 4319 would result in small cost increases for civil service retirement, health benefits, and life insurance premiums. However, these costs would not begin to accrue until fiscal year 1983. The full-year costs to the Government in fiscal year 1984 are estimated to be approximately $10 million, with gradual increases thereafter.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Robert A. Levine
(For Alice M. Rivlin, Director).

AGENCY COMMENTS

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 16, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 4319, a bill to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes, passed by the House on July 18, 1977.

The Commission supports the provisions of H.R. 4319. H.R. 4319 is similar to a legislative proposal submitted by the Commission during the 93d Congress which was introduced as H.R. 3798. A similar bill, H.R. 504, was also introduced in the 94th Congress and passed by the House.

H.R. 4319 would reduce the present 12-year service requirement for purposes of retaining health benefits and life insurance after retirement to only 5 years for those individuals who are separated after December 31, 1982. The 12-year service requirement currently applies to all except disability retirements. This provision would make retirement possible for many eligible employees over age 62 who now stay on the job solely to complete the required 12 years of service for life insurance and health benefits retention. In addition, it would standardize at 5 years the service requirement for vesting of employee life insurance and health benefits coverage, the same as the present 5-year service requirement for a vested right to retirement benefits.

In our report to the House committee which considered H.R. 4319, we offered a technical change in connection with the amendment to section 8706(b) of title 5, United States Code. We suggested that the word "or" after subparagraph (1); (lines 1 and 2 on page 2 of the bill) be retained for clarity. However, we have recently discussed this with a staff member of the House Committee on Post Office and Civil Service and will interpret section 8706(b) to mean that if an individual retiring on an immediate annuity meets the provisions of any of the subparagraphs listed ((1), (2), or (3)), he or she will be entitled to retain health benefits and life insurance coverage at retirement.

It is estimated that the changes effected by this legislation would increase the regular group life insurance biweekly rate by three-quarters of a cent per $1,000 of insurance coverage (employees' biweekly rate would be increased by one-half cent and the Government contribution by one-quarter cent for each $1,000 of regular insurance coverage). The biweekly rates for the $10,000 optional group life insurance would have to be increased by an average of 5.6 cents. Also, the average high-option biweekly health benefits rate would have to be increased gradually to an additional 38 cents over a period of about 15 years, due to the increasing average age of enrollees under the health benefits program.

In connection with the effective date, the Commission notes that the date was set 5 years in the future primarily because of the provision

for mandatory separation at age 70 after 5 years of service. Since complete elimination of age 70 mandatory retirement was being considered and has since been enacted as Public Law 95-256, the House deleted that provision from the bill but they did not change the effective date. Because we know of no compelling reason for delaying the effective date of the health benefits and life insurance provisions, and because the additional cost would be minimal, the Commission recommends that it become effective upon enactment.

Moreover, on April 20, 1978, a Commission proposal to amend the Federal Employees' Group Life Insurance (FEGLI) law, chapter 87 of title 5, United States Code, was submitted to the Speaker of the House and the President of the Senate. That proposal which has administration support provides for continuation into retirement of both regular and optional life insurance after 5 years of participation in those programs. To avoid conflict, I would like to recommend that section 2 of H.R. 4319, relating to life insurance be amended to conform with the Commission proposal. Enclosed for your assistance is a redraft of that section which would accomplish this purpose.

The enactment of H.R. 4319 would go a long way toward making the life insurance and health benefits laws more responsive to the needs of both the Government and its employees. The Commission, accordingly, recommends early enactment of this bill.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ALAN K. CAMPBELL, *Chairman.*

SUGGESTED REVISED LANGUAGE

SEC. 2. Chapter 87 of title 5, United States Code, is amended—

(1) by amending subsection (b) of section 8706 to read as follows:

"(b) If on the date the insurance would otherwise stop, the employee retires on an immediate annuity or is receiving compensation under subchapter I of chapter 81 of this title because of disease or injury to himself and is held by the Department of Labor to be unable to return to duty and the employee has been insured for a period of not less than—

(1) 5 years immediately preceding such date, or

(2) all periods in which he was entitled to be insured, if less than 5 years,

life insurance only may be continued under conditions determined by the Commission. The amount of life insurance continued under this subsection shall be reduced by 2 percent at the end of each full calendar month after the date the insured employee becomes 65 years of age and is retired or is in receipt of compensation for work injury. The Commission shall prescribe minimum amounts, not less than 25 percent of the amount of life insurance in force before the first reduction, to which the insurance may be reduced."

(2) by deleting subsection (c) of section 8706.

(3) by redesignating subsections (d), (e), and (f) of section 8706 as subsections (c), (d), and (e), respectively.

(4) by amending newly designated subsection (d) of section 8706 by striking out "The insurance" in the first sentence and inserting in lieu thereof: "(d) Notwithstanding subsections (a) and (b), the insurance".

(5) by amending subsection (c), paragraph (2) of section 8714a. to read as follows:

"(2) So much of the optional life insurance (without accidental death and dismemberment insurance) in force on an employee on the date he retires on an immediate annuity or becomes entitled to receive compensation for work injuries under subchapter I of chapter 81 of this title as has been in force for not less than—

(A) 5 years immediately preceding such date, or

(B) the full period or periods of service during which the optional insurance was available to him, if less than 5 years.

may be continued under conditions determined by the Commission, after retirement or while the employee is receiving compensation for work injuries and is held by the Department of Labor to be unable to return to duty, subject to the same monthly reductions required for regular life insurance under section 8706(b) of this title."

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., September 27, 1977.

B-82007.
FPC-77-68.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of August 23, 1977, asked for our comments on H.R. 4319, a bill to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes. Under current law (5 U.S.C. life and health insurance coverage if they have completed at least 12 years of Government service or are retiring for reasons of disability. (Disability retirement is available after 5 years of service.)

We would oppose the enactment of H.R. 4319 primarily because, in our opinion, the bill's provisions would compound an existing serious inequity for career employees under the life insurance program. This position is based on the results of our comprehensive review of the program made at the request of the chairman, House Committee on Post Office and Civil Service, which was completed earlier this year. Our report, entitled "Changes to the Federal Employees Group Life Insurance Program Are Needed," was issued on May 6, 1977.

Employees may elect to be covered by the life insurance program in amounts equal to their annual rate of pay rounded to the next higher

$1,000, plus $2,000, with a minimum coverage of $10,000. For retired employees, coverage is reduced after age 65, at the rate of 2 percent a month, until a reduction of 75 percent is reached. The Government pays one-third of the premium, and the employee pays the remaining two-thirds. Premium payments by both the employee and the Government cease upon retirement, thus, the entire cost of the program, including the "free" postretirement coverage, is paid during an employee's working career. Employees may also purchase additional coverage of $10,000 with no Government contributions. Retirees must pay for the optional coverage until age 65, at which time the coverage is reduced in the same manner as the regular insurance program.

As previously indicated, employees who retire with as few as 12 years of service retain their life insurance coverage with no further premium payment. Similarly, employees who initially decline coverage under the program are allowed to join later and receive the same benefits as employees who paid premiums for their entire careers. Since premiums include post-retirement costs, we believe a significant inequity exists in the program. Our report suggested that greater equity would result if the law were changed to correlate the amount of postretirement coverage with the length of time a retiree was covered by the program as an active employee. Rather than correct the problem, H.R. 4319 would compound the inequity by allowing a retiree with only 5 years of service to receive the same benefits as a retiree who had paid premiums during 30 years or more of employment.

As discussed in our report, we believe changes to the life insurance program are needed to make it a viable part of the death benefits package for Federal employees. The inequity discussed above is one of many that exist in the program. We would suggest that the preferable approach would be to develop and incorporate comprehensive modifications to the program at one time rather than making changes to correct individual problems.

We would also question the reasonableness of allowing retirees to continue their health insurance coverage after only 5 years of service as proposed by H.R. 4319. Under various cost-sharing formulas, the Government pays up to 75 percent of the premiums for the variety of health insurance plans available. Unlike life insurance, the retirees and the Government continue to pay health insurance premiums during retirement, and retirees' survivors may continue the coverage in the same cost-sharing ratio. At issue, in effect, is the question of whether 5 years of Government service should entitle an employee to have 75 percent of his health insurance paid by the taxpayers during the remainder of his lifetime and that of his survivors. In our opinion such payments are not justified.

We recognize that some would maintain that the 12-year service requirement for retention of life and health insurance after retirement is unreasonable in view of the fact that employees may receive retirement benefits after only 5 years of service. In fact, however, the programs are not analogous. The amount of civil service retirement benefits received are directly related to salary and years of service. For example, an employee with 5 years of service would receive an annuity equal to only 7.5 percent of his "high-3" average annual salary in comparison to the 56.25 percent that a 30-year employee would receive.

As previously shown, such is not the case for life and health insurance. Benefits under these programs are not related whatsoever to years of service or the amount of contributions made by the covered employees.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

CHANGES IN EXISTING LAW MADE BY THIS BILL, AS REPORTED

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported as shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

TITLE 5, UNITED STATES CODE

* * * * * * *

Subpart G—Insurance and Annuities

* * * * * * *

CHAPTER 87—LIFE INSURANCE

* * * * * * *

§ 8706. Termination of insurance

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[(b) If on the date the insurance would otherwise stop the employee retires on an immediate annuity and—

(1) his retirement is for disability; or

(2) he has completed 12 years of creditable service as determined by the Commission;

his life insurance only may be continued, without cost to him, under conditions determined by the Commission. Periods of honorable, active service in the armed forces shall be credited toward the required 12 years if the employee has completed at least 5 years of civilian service. The amount of life insurance continued under this subsection shall be reduced by 2 percent at the end of each full calendar month after the date the employee becomes 65 years of age or retires, whichever is later. The Commission may prescribe minimum amounts, not less than 25 percent of the amount of life insurance in force before the first reduction, to which the insurance may be reduced.

[(c) If on the date the insurance would otherwise stop the employee is receiving benefits under subchapter I of chapter 81 of this title because of disease or injury to himself, his life insurance only may be continued, without cost to him, under conditions determined by the Commission while he is receiving the benefits and is held by the Department of Labor to be unable to return to duty.]

"(b) If on the date the insurance would otherwise stop—

"(1) the employee—

"(A) retires on immediate annuity, or

"(B) is receiving compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee and is certified by the Secretary of Labor or his delegate as being unable to return to duty; and

"(2) the employee has been insured under this chapter during—

"(A) the 5-year period immediately preceding such date, or

"(B) if the employee was entitled to be insured during only a part of such 5-year period, the entire period for which he was so entitled,

life insurance only may be continued under conditions determined by the Commission. The amount of life insurance continued under this subsection shall be reduced by 2 percent at the end of each full calendar month after the date the employee becomes 65 years of age and is retired or is receiving such compensation for work injury. The Commission shall prescribe minimum amounts, not less than 25 percent of the amount of life insurance in force before the first reduction, to which the insurance may be reduced.";

[(d)] *(c) Notwithstanding subsections (a) and (b) of this section,* the [The] insurance granted to an employee stops, except for a 31-day extension of life insurance coverage, on the day immediately before his entry on active duty or active duty for training unless the period of duty is covered by military leave with pay. The insurance does not stop during a period of inactive duty training. For the purpose of this subsection, the terms "active duty", "active duty for training", and "inactive duty training" have the meanings given them by section 101 of title 38.

[(e)] *(d)* Notwithstanding subsection [(a)–(c)] [*(a) and (b)*] of this section, an employee who enters on approved leave without pay to serve as a fulltime officer or employee of an organization composed primarily of employees as defined by section 8701(a) of this title, within 60 days after entering on that leave without pay, may elect to continue his insurance and arrange to pay currently into the Employees' Life Insurance Fund, through his employing agency, both employee and agency contributions from the beginning of leave without pay.

* * * * * * *

§ 8705. Death claims; order of precedence; escheat

(a) The amount of group life insurance and group accidental death insurance in force on an employee at the date of his death shall be paid, on the establishment of a valid claim, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries designated by the employee in a signed and witnessed writing received before death in the employing office or, if insured because of receipt of annuity or of benefits under subchapter I of chapter 81 of this title as provided by section 8706(b) [or (c)] of this title, in the Civil Service Commission. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

Second, if there is no designated beneficiary, to the widow or widower, of the employee.

Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the employee.

Sixth, if none of the above, to other next of kin of the employee entitled under the laws of the domicile of the employee at the date of his death.

* * * * * * *

§ 8714a. Optional insurance

[(2) So much of the optional life insurance in force on an employee on the date he retires on an immediate annuity or becomes entitled to receive compensation for work injuries which has been in force for not less than—

[(A) the full period or periods of service during which the optional insurance was available to him; or

[(B) the 12 years of service immediately preceding his retirement or beginning date of entitlement to compensation for work injuries and during which the optional insurance was available to him;

whichever is shorter, may be continued—

[(A) after retirement, under the same conditions (except with respect to cost but including reduction of the amount continued) as provided in section 8706(b) of this title; or

[(B) while in receipt of compensation for work injuries under the same conditions (except with respect to cost) as provided in section 8706(c) of this title.]

"(2) *So much of the standard optional life insurance (without accidental death and dismemberment insurance) in force on an employee on the date he retires on an immediate annuity or becomes entitled to receive compensation for work injuries under subchapter I of chapter 81 of this title which has been in force under this chapter during—*

"(A) *the 5-year period immediately preceding such date, or*

"(B) *any period of service during such 5-year period which the standard optional insurance was available to him if not available the entire 5-year period,*

may be continued, under conditions determined by the Commission after retirement or during the period the employee is receiving compensation for work injuries and is certified by the Secretary of Labor or his delegate as being unable to return to duty, subject to the same monthly reductions required for regular life insurance under section 8706(b) of this title.".

* * * * * * *

CHAPTER 89—HEALTH INSURANCE

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§ 8901. Definitions

For the purpose of this chapter—

(1) * * *

* * * * * * *

(3) "annuitant" means—

(A) an employee who retires on an immediate annuity under subchapter III of chapter 83 of this title or another retirement system for employees of the Government, after [12] *5* or more years of service or for disability;

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Calendar No. 1003

95TH CONGRESS
2d Session
SENATE
REPORT
No. 95-1081

EXTENDING CERTAIN BENEFITS TO FORMER EMPLOYEES

AUGUST 10 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. SASSER, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 408]

The Committee on Governmental Affairs, to which was referred the bill (S. 408) to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendments are technical changes to the original bill.

PURPOSE

The purpose of S. 408, as amended, is to broaden the applicability of Public Law 90-367 by granting to former employees of the Agricultural Stabilization and Conservation Service, who become employed by a Federal agency, certain benefits, such as transferring accumulated sick and annual leave, receiving full credit for prior service in determining the annual rate of annual leave accrual and reduction-in-force preference, and transfer of rate of pay.

COMMITTEE ACTION

Hearings on S. 408 were conducted by the Subcommittee on Civil Service and General Services on March 17, 1978. Testimony in support of the legislation was received from: the Honorable Jesse Helms, U.S. Senator of North Carolina, and representatives of the National Association of Agriculture Stabilization and Conservation Service County Office Employees. Mr. Reginald Jones, Acting Director, Bureau of

Policies and Standards, U.S. Civil Service Commission testified in opposition to the legislation.

Thereafter, the subcommittee on July 12, 1978, recommended favorable action by the full committee on the legislation, as amended.

BACKGROUND

The Agricultural Stabilization and Conservation Service (ASCS) was established by the Secretary of Agriculture in 1961 pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act. ASCS administers specified commodity and related land use programs designed for voluntary production adjustment, resource protection, and price, market, and farm income stabilization. In each State, ASCS operations are supervised by a State committee of three to five members appointed by the Secretary of Agriculture. A State executive director, appointed by the Secretary, and staff carry on day-to-day operations of the State office. In each of approximately 2,800 agricultural counties, local ASCS programs are administered by a county committee of three members who are elected to the committee by farmer-elected delegates to a county convention. The county committees employ necessary staff to carry on day-to-day operations of the county office.

Currently, there are approximately 7,200 ASCS county committee employees in the United States. Although, these county committee employees are treated as if they are Federal employees for purposes of granting most benefits which Federal employees receive, such as retirement, and life and health insurance, the Civil Service Commission feels that they do not meet the established criterion to be considered as Federal employees. In addition to such retirement, life and health insurance benefits, Public Law 90–367, enacted in June 29, 1968, extended to ASCS county committee employees who enter into Federal employment with the Department of Agriculture certain additional benefits. These benefits include transferring annual and sick leave to the new position, creditable service for leave earning and reduction-in-force purposes, and the highest previous rate of pay for salary determination purposes. County committee employees, however, still have to meet competitive selection procedures for positions in the Department of Agriculture.

S. 408, as amended, extends the benefits accorded by Public Law 90–367 to county committee employees who transfer to any department or agencies in the executive branch, thereby, providing for the transfer of annual and sick leave, creditable service for leave earning and reduction-in-force purposes, and highest previous rate salary determination. County committee employees must, however, be competitively selected for positions in such Federal department or agencies.

The committee believes that county committee employees perform vital functions to their localities under direction and supervision of the Federal Government. They are paid with Federal funds and they are already eligible for retirement, health and life insurance benefits which Federal employees are eligible for. Those county committee employees who become employed at the Department of Agriculture can, as a result of Public Law 90–367, carry over their leave and pay benefits. In fact, should such an employee leave the Department of Agriculture

and transfer to another Federal agency he continues to count his county committee service for leave, pay, and reduction-in-force purposes.

S. 408 establishes uniformity and consistency in the treatment of county committee employees who transfer into Federal agencies. For these reasons, the committee urges the enactment of S. 408, as amended.

Section-by-Section Analysis

Section 1(a) of S. 408 amends section 5334(f) of title 5, United States Code, relating to the rate of pay of county committee employees, by striking out the reference to the Department of Agriculture, in order to make the section applicable to all Federal agencies.

Subsection (b) amends section 6312 of title 5, United States Code, relating to annual and sick leave to county committee employees by striking out the reference to the Department of Agriculture in order to make the section applicable to all Federal agencies.

Subsection (c) amends section 3502(a)(c) of title 5, United States Code, relating to retention preference for county committee employees by striking out the reference to the Department of Agriculture in order to make the section applicable to all Federal agencies.

Section 2 states that the provisions of the legislation shall take effect on the date of the enactment of the act.

Evaluation of Regulatory, Paperwork, and Privacy Impact

The committee anticipates that this legislation will have no adverse impact upon regulatory function, paperwork, or the privacy of individuals.

Estimated Cost

Set forth below is a statement furnished by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1978.

Congressional Budget Office,
U.S. Congress,
Washington, D.C., July 26, 1978.

Hon. Abraham Ribicoff,
Chairman, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 408, a bill to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes, as ordered reported by the Senate Committee on Governmental Affairs, July 24, 1978.

The bill provides that former employees of county committees of the Agriculture Stabilization and Conservation Service (ASCS) who are appointed to positions in Federal agencies are entitled to count their years of ASCS employment for determining total years of federal service and associated leave benefits. Federal retirement, health, and insurance benefits are already available to ASCS committee em-

ployees. Furthermore, under current law, they may transfer credit for their service if they are employed by the Department of Agriculture (USDA), and transfer such credit again, if subsequent to employment with USDA, they join another federal agency.

The major impact of the bill is to permit years of service with the county committees to be used in determining leave and to be considered in reduction-in-force situations; the cost of Federal retirement, health, and insurance benefits is not dependent upon years of service. Since the number of individuals benefiting from this bill is likely to be small, and since potential costs would be those resulting from additional leave, it is estimated that no significant additional costs would be incurred by the Government as a result of this bill.

Sincerely,

ROBERT A. LEVINE,
(FOR ALICE M. RIVLIN, Director).

AGENCY COMMENTS

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 27, 1977.

Hon. ABRAHAM A. RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to the request received from the Senate Committee on Post Office and Civil Service for the Commission's views on S. 408, a bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes.

The Commission recommends against enactment of this bill.

The purpose of S. 408 is to broaden the applicability of existing special benefits originally provided by Public Law 90–367, for former employees of county offices of the locally elected, non-Federal agricultural stabilization and conservation committees who are appointed to positions in the Federal Government. These special benefits include certain preferential treatment in setting pay upon appointment, transfer of accumulated sick and annual leave, receiving full credit for prior non-Federal county service in determining the rate of annual leave accrual and for reduction-in-force purposes. These benefits, recognizing non-Federal service, now apply only when these former county committee employees are appointed in the Department of Agriculture. S. 408 would extend such credit to their employment in any Federal agency. This could impose certain additional unwarranted costs and would result in considerable inequities as compared to benefits provided other employees brought into Federal service. It would also afford special advantages over those who have been career Federal employees for example in a reduction in force. It would result in inequities with respect to the earning of annual leave, inequities which would be a source of dissatisfaction on the part of those employees whose prior non-Federal employment cannot be credited for leave purposes.

The intent of Congress in passing Public Law 90–367, permitting service credit for such purposes as setting pay and leave earning rates,

was to limit the provisions of that law to employment in the Department of Agriculture. The purpose of that legislation was to assist that department in its recruitment of experienced well-qualified persons serving in the agricultural stabilization and conservation committees' county offices, and it was justified on the grounds it would have no adverse effect on any other department or agency of the Government, inasmuch as such agencies had no such recruitment requirements. S. 408 would be directly contrary to the express purposes of the earlier law.

The Civil Service Commission has opposed prior legislative proposals similar to S. 408, because they would have accorded preferential treatment not generally available to any other group. Because S. 408 would make the special treatment afforded former county committee employees generally applicable to their employment throughout the Federal service, its enactment in our view could open the way for other non-Federal personnel working in programs interrelated to Federal programs, or in federally assisted programs, to claim similar benefits.

For the foregoing reasons, the Civil Service Commission strongly opposes passage of S. 408.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ALAN K. CAMPBELL, *Chairman.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 6, 1977.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request of January 26 for a report on S. 408, a bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes.

This Department defers to the Civil Service Commission and the other agencies that would be affected by this bill.

The bill would amend 5 U.S.C. 5334(f) to provide that non-Federal Agricultural Stabilization and Conservation Service (ASCS) county employees, upon subsequent employment in a General Schedule position in any agency, may have their rate of pay fixed at a rate not to exceed the highest previous rate of basic pay received during service with the county committee. The bill would also amend 5 U.S.C. 3502 (a) and 6312, to provide that service rendered as an ASCS county employee shall be included in determining years of service for reduction-in-force and annual leave accrual purposes respectively.

ASCS county employees have attained, through previous legislation, these benefits upon employment in the Department of Agricul-

ture. The legislation would grant such benefits upon employment by Federal agencies other than the Department of Agriculture.

Under S. 408, while former ASCS county employees would first have to meet eligibility requirements for a General Schedule position before the benefits proposed would apply, it must be conceded that ASCS employees could displace regular career employees in reduction in force in such agencies as a result of their added service credit.

Presently, annual leave that cannot be transferred by ASCS county employees to their new agency must be paid in a lump sum by ASCS. The proposed legislation would provide that this benefit would be transferred. We believe non-USDA agencies who appoint former ASCS employees would incur a negligible increase in costs. Such costs would result from the higher entry-level salary rates and larger annual leave accrual bracket the former ASCS employees would receive. Additional cost would arise only if that ASCS employee's new salary were higher, and that option is exercised by the employing agency.

While it may be unusual for leave and service time to be credited in one executive department of the Federal Government and not in all, there is a valid basis for limiting such credit to USDA employment. This restriction is based on this Department's unique requirements for personnel with ASCS experience, a need that other agencies have not indicated they share.

The Office of Management and Budget advises that there is no objection to the presentation of this report, but that Office joins with the Civil Service Commission in strongly opposing enactment of S. 408.

Sincerely,

JOHN C. WHITE,
Acting Secretary.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

SECTION 5334 (f) OF TITLE 5, UNITED STATES CODE

(f) An employee of a county committee established pursuant to section 590h(b) of title 16 may, upon appointment to a position [under the Department of Agriculture,] subject to this subchapter, have his initial rate of basic pay fixed at the minimum rate of the appropriate grade, or at any step of such grade that does not exceed the highest previous rate of basic pay received by him during service with such county committee.

SECTION 6312 OF TITLE 5, UNITED STATES CODE

§ 6312. Accrual and accumulation for former ASCS county office employees

Service rendered as an employee of a county committee established pursuant to section 590h(b) of title 16, or of a committee or an asso-

ciation of producers described in section 610(b) of title 7, shall be included in determining years of service for the purpose of section 6303(a) of this title [in the case of any officer or employee in or under the Department of Agriculture]. The provisions of section 6308 of this title for transfer of annual and sick leave between leave systems shall apply to the leave system established for such employees. (Added Pub. L. 90-367, § 2(a), June 29, 1968, 82 Stat. 277, amended Pub. L. 90-623, § 1(25), Oct. 22, 1968, 82 Stat. 1314.)

SECTION 3502(a)(C) OF TITLE 5, UNITED STATES CODE

§ 3502. Order of retention

(a) The Civil Service Commission shall prescribe regulations for the release of competing employees in a reduction in force which give due effect to—

(1) tenure of employment;

(2) military preference, subject to section 3501(a)(3) of this title;

(3) length of service; and

(4) efficiency or performance ratings.

In computing length of service, a competing employee—

(A) who is not a retired member of a uniformed service is entitled to credit for the total length of time in active service in the armed forces;

(B) who is a retired member of a uniformed service is entitled to credit for—

(i) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(ii) the total length of time in active service in the armed forces if he is included under section 3501(a)(3) (A), (B), or (C) of this title; and

(C) [who is an employee in or under the Department of Agriculture] is entitled to credit for service rendered as an employee of a county committee established pursuant to section 590(b) of title 16, or of a committee or an association of producers described in section 610(b) of title 7.

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Calendar No. 1004

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1082

AMENDING CHAPTER 83 OF TITLE 5, UNITED STATES CODE

AUGUST 10 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. SASSER, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany H.R. 4320]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 4320) to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

On page 3, line 12, strike out "Sec. 3." and insert in lieu thereof: "Sec. 3.(a)".

On page 4, between lines 5 and 6, insert the following (b) Notwithstanding the provisions of section 8339(k)(2) of title 5, United States Code, an annuitant—

(1) who was unmarried at the time of retiring under subchapter III of chapter 83 of such title,

(2) who married after retiring during the period beginning on January 9, 1971, and ending on the day before the date one year before the date of the enactment of this Act, and

(3) who certifies to the Civil Service Commission that he was unable to file a timely election under such provision of law by reason of his failure to receive notification of his right to file such an election,

may irrevocably elect, in a signed writing received in the Commission within one year after the effective date of this section, a reduction in his current annuity in accordance with the provisions of section 8339 (j) of title 5, United States Code, but only if at the time of such election he deposits an amount equal to the amount by which, if he had filed an election on the last day on which he could timely file under

29-010—78——1

such section 8339 (k) (2), his annuity would have been reduced during the period beginning on the first day his annuity would have been reduced if he had so filed and ending on the day before a reduction is to take effect under this subsection. The reduction in annuity resulting from an election filed under this subsection is effective the first day of the month after the election is received in the Commission.

Purpose of Amendments

The amendments permit an unmarried annuitant, who married between January 8, 1971, and the day before the date 1 year before the date of the enactment of this legislation, 1 additional year in which to elect a reduced annuity to provide a survivor benefit, provided such annuitant deposits an amount equal to the amount by which his annuity would have been reduced if he had made a timely election for a reduced annuity under the provisions of section 8339 (k), title 5, United States Code.

Purpose

The primary purpose of H.R. 4320, as amended, is to authorize the discontinuance of civil service annuity payments to former civil service employees who, on or after the effective date of this legislation, are appointed as justices or judges of the United States. Annuity payments would be resumed upon resignation or retirement from regular active service as such a justice or judge.

The bill, as amended, would also reopen for 1 year an opportunity provided under Public Law 91–658 for annuitants who had been unmarried at the time of retirement, but who had married prior to that law's enactment on January 8, 1971, to elect within 1 year following such date of enactment a reduced annuity with a survivor annuity payable to a spouse.

In addition, the bill, as amended, permits unmarried annuitants, who married between January 8, 1971, and 1 year prior the date of enactment, an additional year to elect a reduced annuity to provide a survivor benefit, provided such annuitant pays into the civil service retirement fund the amount which would have been deducted had an election been made at the time of marriage.

Committee Action

H.R. 4320 was the subject of hearings by the Subcommittee on Civil Service and General Services on May 17, 1978. Statements in support of the legislation were received from Hon. Gladys Spellman, Representative of Maryland, and Mr. Thomas Tinsley, Director, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission.

Thereafter, the subcommittee on July 12, 1978, recommended favorable action by the full committee on the bill, as amended.

Background

As a general policy, annuitants under the civil service retirement system who are reemployed in the Federal Government are not en-

titled to receive both the annuity and the full salary during the period of reemployment. This policy is established under two provisions of law.

The first provision (5 U.S. Code 8344(a)) applies to most annuitants, other than retired Members of Congress, who are reemployed in Federal positions, and requires that an amount equal to the annuity allocable to the period of actual employment shall be deducted from the pay.

The second provision (5 U.S. Code 8344(d)) applies only to a retired Member of Congress receiving an annuity who is reemployed in an appointive or elective Federal position and requires that the annuity payments be discontinued during the reemployment and resumed in the same amount upon termination of the employment.

However, an annuitant, other than a retired Member of Congress, who is appointed as a justice or judge of the United States is not subject, under existing law, to any reduction, either in his civil service annuity or in his judicial pay. There is no specific provision of law authorizing the discontinuance of the annuity of such a justice or judge, such as there is under 5 U.S. Code 8344(d) in the case of a retired Member of Congress. The provisions of section 8344(a) authorizing an amount equal to the annuity to be deducted from the pay cannot be applied to the pay of a justice or judge, since article III of the Constitution prohibits the salary of a justice or judge from being diminished during his continuance in office.

The provisions of section 1, the bill, as amended, will place a restriction on the payment of civil service annuities to retirees from civil service positions who are appointed as justices or judges on or after the effective date of the Act. This restriction is identical to the the one which now applies to retired Members of Congress—that is, upon reemployment as a justice or judge, the annuity payments will be discontinued during such employment and resumed in the same amount upon resignation or retirement from regular active service as such a justice or judge. The discontinuance of the annuity during such employment will have no effect whatever on any survivor rights that otherwise may be available.

Upon further study of this issue, the committee finds that much confusion and some controversy exists due to the differing interpretations and the administrative decisions based on the interpretations which have been handed down.

Since the pay of a justice or judge could not be reduced due to the constitutional prohibition, the Commission, until recently, took the alternative action of suspending payment of their annuities in order to avoid the dual payment of retirement annuity and salary. This action was based, in part, on a 1966 General Accounting Office decision (45 Comp. Gen. 383) concerning retirement benefits in the case of a judge who, on the basis of service in the executive branch, had established entitlement to a civil service annuity prior to his appointment as a judge. The Administrative Office of the U.S. Courts requested a decision as to whether he was entitled to receive the salary of his judicial office without reduction on account of the civil service annuity he was receiving. The Comptroller General held that, while the judge was entitled to full salary because of the constitutional prohibition against diminishing the compensation of a judge, the payment of his annuity was not authorized while he was in regular active service as a district judge.

In 1973, a judge of the Court of Claims appealed to the Civil Service Commission's Board of Appeals and Review the decision of the Commission's Bureau of Retirement, Insurance, and Occupational Health that he could not receive a civil service annuity during his tenure as a judge of the Court of Claims. In his appeal the judge stated his disagreement with the prior decision, as not being grounded in law. After the Board of Appeals and Review sustained the Bureau's decision on the basis of the GAO decision, the GAO decided to review its position on the issue. As a result, the General Accounting Office wrote to the General Counsel of the Civil Service Commission on August 29, 1974, expressing the view that GAO should not have considered the question of eligibility for a civil service annuity and that the 1966 decision was incorrect.

In 1975, the General Counsel of the Civil Service Commission and the Acting Assistant Attorney General reviewed this question and concluded that the suspension of the annuities of other than former Members of Congress was without authority of law.

In the absence of legal authority to suspend the judges' annuities, the Civil Service Commission concluded, in January 1976, that it could no longer continue the administrative practice of suspending their annuities, except in the case of retired Members of Congress. Also, any other judges who become entitled to annuity while serving as judges, and who apply for such annuity, will be entitled to receive payment thereof.

This decision is applicable only in those cases where the annuity is based on prior service in the civil service of the Government. Payment of annuity is still barred, however, to retired Members of Congress who are serving as justices or judges. Under the provisions of section 8344(d) of title 5, United States Code, the payment of annuity to Member annuitants is discontinued during reemployment and resumed in the same amount on termination of the reemployment.

The committee finds that there are 481 active justices and judges and 174 retired justices and judges who are receiving continuation of pay under 28 U.S.C. 371. At least 90 of these individuals have more than 5 years of prior civil service and a possible claim to at least a deferred annuity at age 62. The amount of annuity payable, though, will vary with each individual case. Back annuity totaling more than $200,000 is being paid to four judges whose annuities had actually been suspended under the prior practice. Eleven more judges have a vested title to deferred annuity which will be paid upon application for it. At least 70 judges have a vested title to deferred annuity based on more than 5 years of creditable service before they became judges, but they technically voided their annuity title by taking a refund upon being appointed a judge. To the extent that they relied on advice that payment of annuity to which they might become entitled at age 62 would be suspended during their active service as a judge, the refunds might be held as erroneous, but it is at best very questionable as to whether the Commission has any legal authority to permit them to make a redeposit and reestablish title to deferred annuity. Section 2 of the bill will give the right to redeposit.

Another provision of the bill (section 3), unrelated to the payment of civil service annuities to judges, would reopen for 1 year an opportunity given in 1971 by Public Law 91-658 for annuitants who had been unmarried at the time of retirement, but who had married

prior to the law's enactment on January 8, 1971, to elect within 1 year after the law's enactment, a reduced annuity with a survivor annuity payable to their spouses. The new opportunity for such annuitants to elect a reduced annuity with survivor annuity payable to their spouses would be limited to annuitants who certify to the Civil Service Commission that they were unable to file a timely election under the 1971 law by reason of their failure to receive notification of their right to file such an election.

In addition, H.R. 4320, as amended, will permit a second group of unmarried annuitants, who married between January 8, 1971, and 1 year prior to the enactment of this legislation, 1 additional year in which to elect a reduced annuity to provide a survivor benefit, provided such annuitant deposits into the Civil Service Retirement Fund an amount equal to that which would have been deducted had a timely election been made under the provisions of Public Law 91-658.

Section-by-Section Analysis

SECTION 1

The first section of the bill amends section 8344 of title 5, United States Code, relating to annuities and pay on reemployment, by adding two new subsections at the end thereof.

Under the provisions of the new subsection (f) of section 8344, when an annuitant who is receiving an annuity from the civil service retirement fund, other than a former Member of Congress who is receiving an annuity from the fund, becomes employed as a justice or judge of the United States, as defined by 28 U.S.C. 451, annuity payments will be discontinued during regular active service as such a justice or judge and will be resumed in the same amount (without intervening cost-of-living increases) upon resignation or retirement from such regular active service. This provision is intended to apply to all annuitants (except Member annuitants) including those whose annuities are based on involuntary separations. The requirement for discontinuance of annuity payments during employment and resumption in the same amount upon termination of employment is identical to the existing requirement contained in section 8344(d) of title 5 which is applicable only to Member annuitants who become employed in appointive or elective positions, including positions as Federal judges.

Under section 371(a) of title 28, United States Code, a justice or judge who meets the age and service requirements, may resign from active service and continue to receive the salary he was receiving at the time he resigned. Under section 371(b) of title 28, a justice or judge may retain his office but retire from regular active service and continue to receive the salary of the office. Under the provisions of the new subsection (f) of section 8344, civil service annuity payments will be resumed upon resignation or retirement under section 371 of title 28 or upon termination of regular active service as a justice or judge for any other reason.

It should be noted that the provisions of the new subsection (f) will apply only to annuitants who are appointed as justices or judges of the United States on or after the effective date of this act. See the following discussion of section 4 of this bill.

Under the provisions of the new subsection (g) of section 8344, as added by the first section of the bill, a former employee or a former Member who becomes employed as a justice or judge of the United States, as defined by 28 U.S.C. 451, may apply for and be paid, in accordance with 5 U.S.C. 8342(a), the amount by which his lump-sum credit exceeds the total annuity paid to him, notwithstanding the time limitation on filing such an application presently contained in section 8342(a) of title 5.

Under section 8342(a), an application for payment of a lump-sum credit must be filed with the Civil Service Commission at least 31 days before the earliest commencing date of an annuity for which the employee or Member is eligible. Under the new subsection (g) of section 8344, such an application may be filed by a former employee or Member who becomes employed as a justice or judge of the United States at any time prior to resignation or retirement from regular active service as such a justice or judge. The receipt of payment of the lump-sum credit voids all annuity rights (including survivor annuity rights) under the civil service retirement provisions until the individual is reemployed in a position subject to such provisions.

The purpose of the new subsection (g) is to allow a former employee or Member who becomes employed as a justice or judge sufficient time in which to exercise his election to apply for a refund of his civil service retirement contributions. Such a justice or judge is in a difficult position with respect to deciding what course of action to follow in this regard, since entitlement to continuation of pay under section 371(a) or (b) of title 28 does not vest until the justice or judge actually resigns (at age 70 with 10 years of service as a judge) under section 371(a) or retires (at age 70 with 10 years of service, or at age 65 with 15 years of service) under section 371(b). Under the existing time limitation contained in section 8342(a), a justice or judge may be compelled to exercise his election before he meets the age and service requirements for continuation of pay under 28 U.S.C. 371. If he should elect to the paid his lump-sum credit under section 8342(a) and then subsequently fails to qualify for continuation of pay under section 371 of title 28, he is left with no retirement income from his Federal service for himself or his survivor.

SECTION 2

Section 2 of the bill allows certain present or former justices or judges of the United States, who, prior to the effective date of the section, voided their rights to receive annuities under the civil service retirement provisions by accepting refunds of their retirement contributions, to redeposit such refunds with interest computed under section 8334(e) of title 5 and thereby reestablish their rights to receive their civil service retirement annuities effective on the date they otherwise were eligible to receive such annuities. An application for redeposit under this section must be filed with the Civil Service Commission within one year following the effective date of this section.

In the case of a justice or judge who dies before the effective date of section 2, the application for redeposit may be filed, within one year following such effective date, by the surviving spouse of such justice or judge. In that event, the surviving spouse is entitled to receive both the amount of the annuity which the justice or judge would

have been entitled to receive had the application been filed by him and, in addition, any survivor annuity the justice or judge could have provided under the provisions of law in effect at the time of his separation from the service on which title to the annuity is based.

The committee has been advised that at least 70 judges had a vested title to a deferred civil service annuity based on 5 or more years of creditable service before they became a judge, but they voided their annuity rights by taking refunds of their retirement contributions upon their appointments as judges. Many of these judges applied for the refunds on the basis of erroneous advice that payment of annuity to which they might become entitled at age 62 would be suspended during their active service as a judge. Under existing law, there appears to be no authority for the Civil Service Commission to permit the judges who relied on such erroneous advice to make a redeposit and reestablish title to annuity payments. Section 2 of the bill provides such authority with respect to those judges who relied on the erroneous advice concerning their rights to annuity payments.

SECTION 3

Section 3 of the bill, unrelated to the payment of annuities to judges, provides a new opportunity for certain annuitants to elect a reduced annuity with a survivor annuity payable to a spouse.

Prior to the enactment of Public Law 91-658, January 8, 1971, the civil service retirement law did not permit a retiree who was unmarried at the time of retirement, but who subsequently married, to elect a reduced annuity and provide a survivor annuity for the spouse acquired after retirement. Public Law 91-658 provided such right of election, and section 5(c) of that act extended such right to annuitants who were unmarried at the time of retirement and who later married but prior to the enactment date of the act (January 8, 1971). However, under section 5(c), the election was required to be filled with the Civil Service Commission within one year after such date of enactment.

The committee has been advised that some annuitants did not file a timely election under section 5(c) of Public Law 91-658 because of their failure to receive notification of their right to do so. Section 3 of the bill will permit such annuitants to elect, in a signed writing received in the Civil Service Commission within one year from the effective date of the section, a reduction in annuity, in accordance with section 8339(j) of title 5, United States Code, for purposes of providing a survivor annuity payable to a spouse. The election is irrevocable and the reduction in annuity is effective on the first day of the month after the election is received in the Commission.

Also, as a result of the confusion caused by inconsistent application of Public Law 91-658, H.R. 4320, as amended, establishes a second class of unmarried Federal annuitants. Those who married between January 9, 1971, and the day before the date 1 year before the date of the enactment of this act, will have 1 additional year in which to elect a reduced annuity in order to provide a survivor benefit, provided such annuitant deposits an amount equal to the amount by which his annuity would have been reduced if he had made a timely election for a reduced annuity under the provisions of section 8339(k) of title 5, United States Code.

SECTION 4

Subsection (a) of section 4 provides that the act shall take effect on the date of the enactment of the act or on October 1, 1978, whichever date is later.

Subsection (b) provides that the provisions of subsection (f) of section 8344 of title 5, as added by the first section of the act, shall apply only to an individual who becomes employed (i.e., appointed) as a justice or judge of the United States on or after the effective date of the act.

Additionally, subsection (b) provides that the provisions of subsection (g) of section 8344, as added by the first section of the act, shall apply to an individual who is employed as a justice or judge of the United States on the effective date of the act and to an individual who is appointed as such a justice or judge on or after such effective date.

EVALUATION OF REGULATORY, PAPERWORK, AND PRIVACY IMPACT

The committee anticipates that this legislation will have no adverse impact upon regulatory function, paperwork, or the privacy of individuals.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., July 24, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate,
3306 Dirksen Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: As requested by the committee staff, the Congressional Budget Office has prepared the attached cost estimate for H.R. 4320, a bill to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

JULY 24, 1978.

1. Bill number: H.R. 4320.

2. Bill title: A bill to amend chapter 83 of Title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes.

3. Bill status: As reported by the Subcommittee on Civil Service and General Services of the Senate Committee on Governmental Affairs.

4. Bill purpose: The first section of this bill would eliminate the dual payment of annuities and salaries to those judges appointed after the effective date of H.R. 4320. Section 2 would permit a justice or judge who withdrew his retirement contributions on the assumption he had no further rights under the Retirement Act, to redeposit the amount of the refund provided the application is filed within one year following the effective date of H.R. 4320. Section 3 would reopen for 1 year an opportunity for annuitants who had been unmarried at the time of retirement, but who married prior to January 8, 1971, to elect within 1 year after enactment of H.R. 4320 a survivor annuity payable to their spouses. However, qualified annuitants must make a lump sum payment to the trust fund at the time they elect to participate. This payment would recognize the added cost of a spouse annuity.

5. Cost estimate:

Fiscal year 1978:	
Budget authority	
Outlays	
Fiscal year 1979:	
Budget authority	$96,000
Outlays	83,000
Fiscal year 1980:	
Budget authority	
Outlays	−4,000
Fiscal year 1981:	
Budget authority	
Outlays	−17,000
Fiscal year 1982:	
Budget authority	
Outlays	−32,000

This estimate does not include the potential costs of section 3, which could not be estimated on the basis of available information. The costs of this bill fall within budget function 600.

6. Basis of estimate: If enacted during fiscal year 1978, the provisions of H.R. 4320 would take effect on October 1, 1978. Consequently, there is no cost impact in fiscal year 1978. The fiscal year 1979 increase of $96,000 in budget authority represents the redeposit of lump sum payments plus interest to the civil service retirement fund. Individuals must complete payment of their redeposit prior to the receipt of benefits. Benefit payments (outlays) in fiscal year 1979 include $75,000 for deferred annuities; that is, the amounts not collected since attaining age 62.

Section 1

Estimated savings for a U.S. attorney who resigns to become a judge. Annual savings (based on CSC estimate), $10,900.

5-YR SAVINGS

[Fiscal years; in thousands of dollars]

	1978	1979	1980	1981	1982
Eliminate annuity		10.9	21.8	32.7	43.6
Inflation adjustment		.6	2.7	6.2	11.4
Total savings		11.5	24.5	38.9	55.0

It is difficult to predict the number of Federal employees who will be employed as Federal judges, and eligible to receive a civil service retirement annuity. Consequently, we have assumed one such case per year.

Section 2

The critical variables in estimating the cost impact of section 2 of H.R. 4320 are: (1) the number of individuals electing to exercise the redeposit provisions of Section 2, (2) their average civil service salary, and (3) their average length of service upon which retirement benefits are computed. Data necessary for the determination of these variables were provided by the Civil Service Commission at the request of CBO.

A. Approximate number of redeposit cases	50
B. Average salary	$35,000
C. Average length of service (years)	5
Date of birth (range between)	1910-20
D. Employee contribution to the retirement fund (as percent of average salary) (Percent)	4
Budget Authority (derived from multiplying A times B times C times D and compounding for 22 years at 3 percent interest)	$95,600
Outlays (derived from multiplying 1½ percent times A times B times C)	$16,750

The outlays for fiscal years 1978–82 (see table below) are in accordance with mortality assumptions provided by the Civil Service Commission and CBO cost-of-living assumptions.

5-YR OUTLAYS

[In thousands of dollars]

Fiscal years	Base	Reductions [1]	Increases [2]	Total net outlays
1978				
1979				
1980	18.8		[3] 75.6	94.4
1981	18.8	−0.1	2.3	21.0
1982	18.8	−.3	3.5	22.0
	18.8	−.4	4.8	23.2

[1] Attributable to a mortality factor assumption of 0.9925 provided by the Civil Service Commission.
[2] Due to annuity increases from cost-of-living adjustments.
[3] Includes $75,000 for retroactive payment of deferred annuities.

SUMMARY—5-YR OUTLAY FOR H.R. 4320

[Fiscal years; in thousands of dollars]

	1978	1979	1980	1981	1982
Section 1		−11.5	−24.5	−38.9	−55.0
Section 2		94.4	21.0	22.0	23.2
Section 3 [1]					
Total		82.9	−3.5	−16.9	−31.8

[1] It is not possible to determine how many petitions concerning spouse survivor benefits would result from enactment of sec. 3. Therefore, we are unable to estimate the cost impact.

7. Estimate comparison: None.

8. Previous CBO estimate: A cost estimate for an earlier version of H.R. 4320 was transmitted to the House Committee on Post Office and Civil Service on February 23, 1978. The only difference in this

version of the bill is the addition, for some annuitants, of redeposit requirements to section 3. This requirement would reduce the number of qualified annuitants who would elect a spouse annuity. Data limitations prevent development of an estimate of budget costs associated with section 3 provisions.

9. Estimate prepared by: David M. Delquadro.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

AGENCY COMMENTS

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 1, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

Dear MR. CHAIRMAN: This is in further reply to your request for the Commission's views on H.R. 4320, an act to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes.

Section 1 of H.R. 4320 would (1) discontinue the payment of annuity to former employees during their active service as a justice or a judge of the United States, provided they are appointed after enactment or after October 1, 1978, whichever is later; and (2) permit a former employee or a former Member who becomes employed as a justice or judge to apply for and be paid a refund of his or her prior retirement contributions at any time during his or her judicial service. The discontinued annuity would be resumed in the same amount (without any cost-of-living annuity increases) upon termination of active judicial service. Section 2 of H.R. 4320 would authorize the Commission to accept within 1 year following enactment redeposit of refunds paid to active or retired justices and judges who obtained those refunds based on the Commission's erroneous advice that such individuals were not eligible to receive an annuity. The surviving spouse of any such justice or judge who dies before the effective date of this section would also be authorized to make such redeposit within 1 year following enactment and receive the annuity and/or survivor annuity to which the justice or judge or surviving spouse would have otherwise been entitled.

The Commission supports enactment of sections one and two of H.R. 4320. The suspension of payment of annuity to former employees during their active service as justices and judges as proposed by this bill would be similar to the discontinuance of payment of annuity to Member annuitants during their active service as a justice or judge as is already required by section 8344(d) of title 5, United States Code.

As a matter of general policy, the Commission believes that no individual should receive both retirement pay from a Federal civilian retirement system and salary for active Federal service during the same period of time. The dual payment of retirement annuity and salary has been declared to be inconsistent with the basic purpose of Federal civilian retirement laws by several Comptroller General decisions (10 Comp. Gen. 309, 14 Comp. Gen. 295, 16 Comp. Gen.

121, and 45 Comp. Gen. 383). The payment of annuity to annuitants who become reemployed as justices or judges appears to be clearly inconsistent with this basic policy and purpose.

The device of discontinuing annuity payments to annuitants and Member annuitants who become justices or judges, it should be noted, permits them to preserve their title to annuity payments in the event they leave their position as justice or judge before they reach age 65 to 70 and complete the 10 to 15 years (except for disability) of service required before they may resign or retire with the right to continuation of their salary (one-half their salary if retired for disability with less than 10 years judicial service) as a justice or judge for life. It also permits them to preserve their spouse's survivorship protection if for some reason they do not participate in or qualify for survivor benefits under the Judicial Survivors' Annuity System, a contributory retirement system like the Civil Service Retirement System. Further, if a judge-annuitant leaves his contributions in the Civil Service Retirement and Disability Fund, and also participates in the Judicial Survivors' Annuity System, his surviving spouse may draw both benefits so long as any service which is credited in computing the survivor's annuity under the Judicial Survivors' Annuity System is excluded from the computation of the survivor's annuity under the Civil Service Retirement System as required by 28 U.S.C. 376(o).

Enactment of the bill would correct a legislative oversight in the 1956 amendments to the Civil Service Retirement Act, Public Law 84-854. The 1956 amendments resolved a 15 year dispute between the Commission and the Judicial Conference of the United States by providing that justices and judges of the United States were not employees covered by the provisions of the Civil Service Retirement System. These amendments further provided that an annuitant who became reemployed as a justice or judge would earn no supplemental or recomputation of annuity benefit during his service as justice or judge. The amendments contained no specific provision, however, concerning the treatment to be given an annuitant's annuity in the event he became a justice or judge. The 1956 amendments did generally provide, though, as had the February 24, 1948, amendments to the Civil Service Retirement Act, for the reduction of pay by an amount equivalent to the amount of annuity upon reemployment in Federal service.

The Commission interpreted the January 24, 1942 amendments to the Civil Service Retirement Act as making justices and judges subject to the act's provisions. Until 1956, however, the Judicial Conference refused to permit any deductions to be taken from the pay of justices or judges, either as employees or annuitants, as the Commission believed was required by the retirement law. As a result, payment of annuity to one annuitant who became a judge in 1949 was suspended in lieu of his pay being reduced. In the first case of an annuitant becoming a justice or judge following the enactment of the 1956 amendments, the Comptroller General of the United States ruled on January 5, 1966 (45 Comp. Gen. 383) that a justice's or judge's salary is barred from being diminished during his term of office under section 1, article III of the U.S. Constitution. Thus, the requirement for reduction of pay by an annuity equivalent was found to be clearly unenforceable in cases where annuitants became justices or judges.

In the Comptroller General's 1966 opinion, however, he went on to say, that "although there may be no statutory prohibition in a particular case against the payment of retirement annuity to a person reemployed by, and receiving salary from, the Federal Government, dual payment of retirement annuity and salary is inconsistent with the basic policies regarding such dual payment expressed in civilian retirement legislation and is without authority of law." The Commission took this decision to compel the suspension of annuity when an annuitant became a justice or judge, in lieu of reducing his salary by the amount of his annuity and has since suspended the payment of annuity in three cases where an annuitant is serving as a judge of the United States.

Suspension of annuity in lieu of reducing pay by an annuity equivalent upon reemployment was entirely consistent with the legislative history of the civil service retirement law. The suspension of annuity during reemployment in a position not covered by the Civil Service Retirement System had, in fact, been required generally by the provisions of the Civil Service Retirement Act Amendments of January 24, 1942. The Commission had, however, found it administratively inconvenient to suspend annuity every time an annuitant became reemployed—even for a few days—and proposed legislation which was enacted as the Civil Service Retirement Act Amendments of February 28, 1948, and provided generally for the alternative action of reducing pay by an annuity equivalent upon reemployment.

Over the years since payment of their annuities was suspended, the affected judges have continued to assert their right to payment. As a result of the judges' discussions with the General Counsel of the General Accounting Office, that General Counsel wrote the Commission's General Counsel in 1974 and advised him that the Comptroller General's decision in 1966 exceeded the Comptroller General's authority in advising that payment of the annuity to justices and judges was barred. The Commission's General Counsel brought his views to the attention of the Director of the Commission's Bureau of Retirement, Insurance, and Occupational Health and both individuals subsequently advised the Civil Service Commissioners early in 1975 that there was no authority of law upon which to base the continued suspension of annuity payments to annuitants who served as justices or judges of the United States. The Commissioners asked the General Counsel to get an opinion from the Justice Department. Later in 1975, the Acting Assistant Attorney General, Office of Legal Counsel, advised the Commission that he was "unable to find any bar to payment of Civil Service annuities during such service; nor any authority to withhold them".

Therefore, based on the advice of legal counsel in the Commission, the General Accounting Office and the Justice Department, the Civil Service Commissioners concluded in January 1976 that they had no alternative left but to pay annuity payments which had heretofore been suspended upon an auunitant's reemployment as a judge. The four judges whose annuities were suspended during the last several years have been paid back annuity payments. Eleven more judges are eligible for deferred annuity payments.

Seventy some judges had a vested title to deferred annuity based on more than 5 years of creditable service before they became a judge, but they technically voided their annuity title by taking a refund upon being appointed a judge. To the extent that they relied on our erroneous advice that payment of annuity to which they might become entitled at age 62 would be suspended during their active service as a judge, the refunds might be held to be erroneous. However, the Commission has no authority under existing law to permit them to make a redeposit and reestablish title to deferred annuity unless they return to employment covered by the retirement law. Enactment of H.R. 4320 would give the Commission authority to accept redeposits from such individuals or their survivors.

We have no way of estimating the cost of paying annuity benefits to annuitants who become judges. There are 499 active justices and judges and 180 retired justices or judges, who are receiving continuation of pay. Based on a study conducted 2 years ago, we estimate that at least 90 of these individuals have more than 5 years of prior civil service and a possible claim to at least a deferred annuity at age 62. The amount of annuity payable, however, varies with each individual case. To give an example, though, for any U.S. attorney earning $30,000 a year who becomes a justice or judge after completing 5 years of creditable service, annuity payments would commence at the rate of $2,250 a year when he reaches age 62. A U.S. attorney earning $30,000 a year who resigns to become a justice or judge after completing 20 years of creditable service, becomes entitled to immediate annuity payments at the rate of $10,875 a year.

Section 3 of H.R. 4320 would reopen for one year an opportunity given in 1971 by Public Law 91–658 for annuitants who had been unmarried at the time of retirement, but who had married prior to the law's enactment on January 8, 1971, to elect within 1 year after the law's enactment, a reduced annuity with a survivor annuity payable to their spouses. This new opportunity for such annuitants to elect a reduced annuity with survivor annuity payable to their spouse would be limited to annuitants who certified to the Civil Service Commission that they were unable to file a timely election under the 1971 law by reason of their failure to receive notification of their right to file such an election.

The Commission opposes enactment of section 3 of H.R. 4320 because it would set a precedent for paying benefits at any time an individual claimed that he did not receive a notice of a particular benefit within the time limit prescribed for electing it. While the Commission has a responsibility to notify affected individuals of benefits changes, it has no way of ascertaining whether, in fact, each and every affected individual receives such notice. The Commission did mail a notice of the opportunity to elect a reduced annuity with survivor benefit to all annuitants in 1971. The Commission also issued press releases and agency bulletins to assure wide public notice of this and other opportunities given by Public Law 91–658 to elect a reduced annuity with survivor benefit.

In spite of wide publicity given the survivor benefit provisions of Public Law 91–658, a number of annuitants have advised the Commission that they did not receive any notification of the 1 year opportunity for annuitants unmarried at time of retirement to elect a reduced annuity with spouse survivor benefit and the Commission has no way

of verifying whether they did or did not receive such notification. In the event section 3 of H.R. 4320 does become law, the Commission would have to issue regulations defining circumstances under which the Commission would accept an annuitant's certification that he had not received any notification of the 1971 opportunity for unmarried annuitants to elect reduced annuity with survivor benefit. The Commission has no way of knowing how many annuitants might make a belated election of reduced annuity with spouse survivor benefits if this provision were enacted and cannot, therefore, estimate the cost of this provision.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ALAN K. CAMPBELL,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., June 22, 1978.

B-157469.
FPC-78-93.
Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN Your letter of April 5, 1978, requested our comments on H.R. 4320, 95th Congress, 2nd session, a bill to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes.

Federal judges and justices are covered by the Federal Judiciary Retirement System under section 371 to 376 of title 28 of the United States Code. Retirement benefits are payable under this system when a judge or justice attains age 65 with 15 years of service or age 70 with 10 years of service. The amount of benefits payable depends on whether active service is terminated through retirement or resignation. Retired justices and judges may be assigned to perform such judicial duties as they are willing and able to perform, and they continue to receive the full salary of the office. Justices and judges who resign are limited to their full salary at the time of resignation.

Annuitants under the Civil Service Retirement System who are reemployed by a department or agency may not receive both their annuity and full salary during a period of reemployment. Employing agencies are required (sec. 8344, title 5, United States Code) to deduct annuity payments from reemployed annuitants' salaries and deposit these amounts in the Treasury to the credit of the civil service retirement fund. This requirement does not apply to justices and judges who may be receiving civil service annuities earned before their judicial service since article III of the Constitution provides that a judge's salary shall not be diminished during his continuance in office. Justices and judges are allowed to receive civil service annuities in addition to their full salaries.

On the other hand, a retired Member of Congress receiving a civil service annuity who becomes reemployed is required by statute to have his annuity discontinued during reemployment. Thus, during active service as justice or judge, a retired Member of Congress is not entitled to receive a civil service annuity. H.R. 4320 would, in effect, apply this requirement to any civil service retiree who becomes a justice or judge.

We support enactment of H.R. 4320, as it would result in more consistent treatment of retirees under the Civil Service Retirement System. In our opinion, both full salary and full retirement benefits should not be paid during active service to a Federal employee.

H.R. 4320 also proposes to amend certain survivorship provisions of the Civil Service Retirement System. Public Law 91–658, approved January 8, 1971, allowed annuitants who had been unmarried at the time of retirement, but who had married prior to the law's enactment, to elect within 1 year after the law's enactment a reduced annuity with a survivor's annuity payable to their spouses. H.R. 4320 would allow retirees who certify that they did not make this election because they had not been notified of their right to the election another opportunity to elect the survivorship benefit within 1 year after enactment of H.R. 4320.

We have no information on the need for this provision of H.R. 4320 or the number of persons who would be affected. Therefore, we can offer no comments on the matter.

Sincerely yours,

R. F. KELLER
Acting Comptroller General
of the United States.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 4, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to the committee's request for the views of this Office on H.R. 4320, to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes, as passed by the House of Representatives on March 13, 1978.

The principal purpose of this bill is to authorize the Civil Service Commission to discontinue payment of civil service retirement annuities to retired Federal employees who become Federal justices or judges, during the period of their active service on the bench. The bill would also allow redeposit of retirement contributions earlier refunded judges and justices as a result of erroneous advice as to their entitlement to annuity. In addition, section 3 of the bill would reopen the survivor election opportunity granted unmarried annuitants under Public Law 91–658, a provision not related to annuities of justices and judges.

In its report, the Civil Service Commission states its reasons for supporting suspension of annuity during active service and its reinstatement upon retirement or resignation of a judge or justice. The Commission also states a number of reasons for opposing the provisions of section 3 of the bill.

We concur in the views expressed by the Civil Service Commission and, accordingly, would not object to enactment of H.R. 4320, provided it is modified as suggested by the Commission.

Sincerely,

NAOMI R. SWEENEY,
Acting Assistant Director
for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

SECTION 8344 OF TITLE 5, UNITED STATES CODE

Chapter 83—Retirement

SUBCHAPTER I—GENERAL PROVISONS

* * * * * * *

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

* * * * * * *

§ 8344. Annuities and pay on reemployment

(a) If an annuitant receiving annuity from the Fund, except—

(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

(4) a Member receiving annuity form the Fund;

becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be duducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331(1) (i) or (ii) of this title—

(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

(B) his lump sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.

(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges of misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(d) If a Member receiving annuity from the Fund becomes employed in an appointive or elective position, annuity payments are discontinued during the employment and resumed in the same amount on termination of the employment, except that—

(1) the retired Member or Member separated with title to immediate or deferred annuity, who serves at any time after separation as a Member in an appointive position in which he is subject to this subchapter, is entitled, if he so elects, to have his Member annuity computed or recomputed as if the service had been performed before his separation as a Member and the annuity as so computed or recomputed is effective—

(A) the day Member annuity commences; or

(B) the day after the date of separation from the appointive position;

whichever is later;

(2) if the retired Member becomes employed after December 31, 1958, in an appointive position on an intermittent service basis—

(A) his annuity continues during the employment and is not increased as a result of service performed during that employment;

(B) retirement deductions may not be withheld from his pay;

(C) an amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title; and

(D) the amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund;

(3) if the retired Member becomes employed after December 31, 1958, in an appointive position without pay on a full-time or substantially full-time basis, his annuity continues during the employment and is not increased as a result of service performed during the employment; and

(4) if the retired Member takes office as Member and gives notice as provided by section 8331(2) of this title, his service as Member during that period shall be credited in determining his right to and the amount of later annuity.

(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

(f) Notwithstanding the provisions of subsection (a) of this section, if an annuitant receiving annuity from the Fund, except a Member receiving annuity from the Fund, becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, annuity payments are discontinued during such employment and are resumed in the same amount upon resignation or retirement from regular active service as such a justice or judge.

(g) A former employee or a former Member who becomes employed as a justice of the United States, as defined by section 451 of title 28, may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8342(a) of this title, the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.

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Calendar No. 1005

95TH CONGRESS, 2d Session } SENATE { REPORT No. 95-1083

FEDERAL EMPLOYEE WITHHOLDING OF LOCAL TAXES

AUGUST 10 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. SASSER, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany H.R. 8342]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 8342) to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 8342 is to extend application of section 5520 of title 5, United States Code, relating to the withholding of city or county income or employment taxes from the pay of Federal employees, to employees who are residents of (but are employed outside of) cities or counties with which the Secretary of the Treasury has entered into a tax withholding agreement under the provisions of section 5520 of title 5.

BACKGROUND

Public Law 93-340, enacted July 10, 1974 (5 U.S.C. 5520), provided for the withholding of city income or employment taxes from the pay of Federal employees where a city ordinance provided for the collecting of such taxes and imposes a duty on employers within the taxing jurisdiction to withhold taxes. Subsequently, the law was amended by section 408 of the Tax Reduction and Simplification Act of 1977 (Public Law 95-30) to extend the application of the tax withholding provisions to county governments.

Currently, the law provides that the Secretary of the Treasury, under certain conditions, shall enter into an agreement with a city or

county to provide for such withholding from the pay of Federal employees who are subject to the tax and who are regularly employed within the city or county. Such agreements do not apply to employees who are residents of the city or county with which the agreement is made but who are employed outside of the city or county. Also, the agreements do not apply to employees who are not residents of the State in which the taxing city or county is located unless the employees specifically consent to have the tax withheld from their pay.

Committee Action

The Subcommittee on Civil Service and General Services conducted hearings on May 17, 1978, receiving testimony from Representative William Clay of Missouri, sponsor of the legislation, and Mr. Dario A. Pagliai, Commissioner, Bureau of Government Financial Operations, Department of the Treasury. In addition, the Civil Service Commission submitted testimony in support of the bill. On July 12, 1978, the subcommittee favorably referred the measure to the Governmental Affairs Committee.

Statement

Under the provisions of H.R. 8342, Federal employees who are residents of a city or county which qualifies for a tax withholding agreement under the existing provisions of 5 U.S.C. 5520 would be subject to such an agreement even though their regular places of Federal employment are located outside the city or county.

Evidence developed during the course of congressional consideration of this bill indicates that a number of cities have experienced difficulties in collecting income tax from Federal employees who are residents of such cities but who work outside the cities' jurisdiction and are therefore not subject to mandatory withholding under present law. Several municipal tax collection officials urged passage of H.R. 8342 on the grounds that it would simplify and expedite the tax collection process, while proving less burdensome in the long run to the affected employees. In addition, the U.S. Treasury Department foresees no problems in the implementation of this legislation and offers no objection to its enactment.

Neither the current law nor H.R. 8342 provides for mandatory withholding of local taxes in the case of an employee who resides in one State and works in another. Both residence and worksite must be in the same State in order for the employee to be subject to the mandatory withholding agreement.

It should be noted that the mandatory withholding provisions of section 5520 apply only to employees "who are subject to the tax." With respect to the liability of Federal employees for payment of taxes imposed by local taxing authorities, section 111 of title 4, United States Code, provides as follows:

> The United States consents to the taxation of pay or compensation for personal service as an officer or employee of the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, by a duly constituted taxing authority having jurisdiction, if

the taxation does not discriminate against the officer or employee because of the source of the pay or compensation.

Section-by-Section Analysis

Subsection (a) of the first section of the bill amends the second sentence of section 5520(a) of title 5, United States Code, so as to extend application of a city or county tax withholding agreement to employees who are residents of the city or county but are not employed within the city or county.

The existing provisions of section 5520(a) require the Secretary of the Treasury to enter into a tax withholding agreement within 120 days of a request for such an agreement by the proper official of a city or county that has an ordinance which provides for the collection of a tax by imposing on employers the duty of withholding sums from the pay of employees whose regular places of employment are within the jurisdiction of the city or county. Under the provisions of such an agreement the head of each agency must comply with the requirements of the ordinance in the case of employees of the agency who are subject to the tax and whose regular places of Federal employment are within the jurisdiction of the city or county with which the agreement is made. Employees who are residents of the city or county but whose places of Federal employment are not within the city or county are not subject to the withholding agreement. Under this amendment, such employees will be subject to mandatory withholding of taxes under agreements entered into in accordance with the existing provisions of section 5520.

Subsection (b) of the first section of the bill amends the last sentence of section 5520(a) of title 5 so as to prohibit application of a tax withholding agreement to an employee whose regular place of Federal employment is not within the State in which the taxing city or county is located (even though the employee is a resident of such city or county) unless the employee specifically consents to have the tax withheld from his pay. This prohibition is additional to existing law which prohibits application of an agreement to an employee who is not a resident of the State in which the taxing city or county is located.

Section 2 of the bill provides that the amendments made by the first section of the act shall take effect on the 90th day following the date of enactment of the act. This 90-day period should afford the Department of the Treasury sufficient time in which to amend their regulations and agreements to cover the additional category of employees who will be subject to the withholding of city or county taxes.

Evaluation of Regulatory, Paperwork, and Privacy Impact

The committee anticipates that this legislation will have no adverse impact upon regulatory function, paperwork, or the privacy of individuals.

Estimated Cost

Set forth below is a statement furnished by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1978.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., July 26, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 8342, a bill to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality, as ordered reported by the Senate Committee on Governmental Affairs, July 24, 1978.

Based on this review, it appears that no significant additional cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN,
Director.

AGENCY COMMENTS

DEPARTMENT OF THE TREASURY,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., October 6, 1977.

Hon. ABE RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This report responds to your request for the views of the Department of the Treasury on H.R. 8342, "To amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality."

Under present law, the Secretary of the Treasury, under certain conditions, is required to enter into an agreement with a city or county levying an income or employment tax to provide that the withholding requirements of the city or county ordinance complied with by heads of Federal agencies. The tax is withheld from the pay of Federal employees who are subject to the tax and whose regular place of employment is within the city or county with which the agreement is made.

The proposed legislation would amend section 5520(a) of title 5, United States Code, to extend this provision by making Federal employees who are residents of the city or county but whose regular place of employment is outside the political boundaries thereof subject to mandatory withholding. Withholding remains optional for residents of the city or county who work outside the State.

The Department has no objection to the bill.

The Office of Management and Budget advised that there was no objection from the standpoint of the administration's program to the submission of an almost identical report on this bill to the House Committee on Post Office and Civil Service.

Sincerely yours,

HENRY C. STOCKELL, JR.,
Deputy General Counsel.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

CHAPTER 55—PAY ADMINISTRATION

* * * * * * *

SUBCHAPTER II—WITHHOLDING PAY

* * * * * * *

§ 5520. Withholding of city or county income or employment taxes

(a) When a city or county ordinance—

(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to a designated city or county officer, department, or instrumentality; and

(2) imposes the duty to withhold generally on the payment of compensation earned within the jurisdiction of the city or county in the case of employees whose regular place of employment is within such jurisdiction;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the city or county within 120 days of a request for agreement by the proper city or county official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city or county ordinance in the case of [employees] *any employee* of the agency who [are] *is* subject to the tax and (*i*) whose regular place of Federal employment is within the jurisdiction of the city or county with which the argeement is made *or* (*ii*) *is a resident of such city or county*. The agreement may not apply to pay for service as a member of the Armed Forces. The agreement may not permit withholding of a city or county tax from the pay of an employee who is not a resident [of the] *of, or whose regular place of Federal employment is not within, the* State in which that city or county is located unless the employee consents to the withholding.

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Calendar No. 1006

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1084

AMENDING TITLE 5, UNITED STATES CODE

AUGUST 10 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. SASSER, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany H.R. 8771]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 8771) to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 8771 is to authorize the Civil Service Commission to comply with the terms of a court decree or property settlement in connection with the divorce, annulment, or legal separation of an employee who is entitled to payments under the civil service retirement system.

COMMITTEE ACTION

Hearings on H.R. 8771 were held by the Subcommittee on Civil Service and General Services on May 17, 1978. Testimony in support of the legislation was received from: Hon. Gladys Spellman, U.S. Representative from Maryland; Mr. Thomas Tinsley, Director, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission; and Mr. Herbert Hoffman, director, American Bar Association. Thereafter, the subcommittee on July 12, 1978 recommended favorable action by the full committee on the bill.

29-010

Background

H.R. 8771, authorizes the Civil Service Commission to comply wi
the terms of a valid State court decree, order, or property settlem
in connection with the divorce, annulment, legal separation of
Federal employee who is entitled to payments under the civil servi
retirement system.

Under existing law (5 U.S.C. 8346(a)), payments under the civ
service retirement system are not assignable or subject to executio
levy, attachment, garnishment, or other legal process, except as ma
be expressly provided by Federal laws. Public Law 93–647 permits th
garnishment of civil service annuity payments but only when necessa
to enforce court-ordered child-support or alimony payments.

Approximately 4 million individuals rely on the civil service retir
ment system for retirement benefits. However, the retirement syste
fails to provide economic protection to the former spouse of a Feder
employee. Such a failure, in many cases, leaves the dependent spous
with no direct retirement benefits despite many years of workin
without compensation, managing a home, raising children, and co
tributing time and effort to the joint martial enterprise.

In 1965, Congress amended the Social Security Act to provide tha
a former spouse who had been married for at least 20 years is entitle
to a pro rata share of the social security recipient's annuity. The 95t
Congress passed Public Law 95–216 which amended this provision b
lowering the 20 years to 10 years of marriage.

In recent years, many State courts have ruled that future retiremen
benefits earned during a marriage should be considered an asset of th
marriage to be apportioned in the event of a legal separation, divorc
or annulment. H.R. 8771 will authorize the Civil Service Commissio
to recognize such court rulings and comply with court determination

In the committee's view, the enactment of legislation which permit
Federal cooperation with State law and court orders is clearly needed
The committee shares the opinion of the Civil Service Commissio
that H.R. 8771 is the proper approach to the problem of benefit
for former spouses.

Section-by-Section Analysis

Subsection (a) of the first section of the bill amends section 834
of title 5, United States Code, by adding a new subsection (j) a
the end of that section.

Paragraph (1) of the new subsection (j) provides that payment
under the civil service retirement system which would otherwis
be made to an employee, Member, or annuitant shall be paid by the
Civil Service Commission to another person if expressly provide
for in the terms of a court decree of divorce, annulment, or lega
separation, or the terms of a court order or property settlement
issued in connection with a divorce, annulment, or legal separation.

The bill provides that payments which would otherwise be made t
an employee, Member, or annuitant based upon his/her service
shall be paid in whole or in part to another person in compliance
with the terms of the court determination. This means that a pay
ment, refund or annuity does not otherwise become payable unti

an application from the individual for such payment is filed with the Commission and the Commission has determined that a benefit is payable. Enactment will not authorize the Commission to make such payments until an application is received from the individual.

Only payments that are based on the service of an employee, Member, or annuitant are affected by this amendment. Therefore, while an employee's earned annuity or lump-sum refund would be subject to the Commission's authority under paragraph (1), a survivor annuity to which the employee may be entitled would not be subject to such authority. The Civil Service Commission would be bound by the terms of the particular court decree, order, or property settlement. Thus, the Commission would have no discretion as to the portion of the payments that are payable to the other person, nor does the bill place any limit on the amount of the annuity which may be awarded to the former spouse.

Furthermore, the former spouse will be entitled to a portion of an individual's retirement benefit only to the extent expressly provided for by the decree or property settlement. Thus, the decree must specify that the former spouse is entitled to payments from the civil service retirement benefit.

Any payments that are made by the Commission under paragraph (1) pursuant to a court order will bar recovery by any other person.

Paragraph (2) of the new subsection (j) provides that the provisions of paragraph (1)—i.e. the requirement to make payments to another person when ordered by a court—shall only apply to payments which become due after the date the Commission receives written notice of the court decree, order, or property agreement, and any other additional information and documentation the Commission may require.

The committee recognizes that in certain cases the Commission may need additional evidence to establish the validity of a court decree, order, property settlement, or other agreement. For example, the Commission may require the submission of a currently certified copy of a court decree. The purpose of this provision is to authorize the Commission to require the submission of such additional evidence when necessary.

Paragraph (3) of subsection (j) provides that the term "court", as used in the subsection, means any court of any State or the District of Columbia.

Subsection (b) of the first section of the bill amends section 8346(a) of title 5, United States Code, by inserting therein a reference to the new section 8345(j). Section 8346(a) now provides that the money mentioned by the civil service retirement provisions, such as annuity payments and lump-sum refunds, is not assignable or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws. It is due to this provision that court orders, decrees, or property settlements are not now honored by the Civil Service Commission. The amendment to section 8346(a) will exempt from the general prohibitions of that section the court-ordered payments authorized under the new subsection (j) of section 8345.

Section 2 of the bill provides that the amendments made by the first section of the bill shall only apply to payments made from the civil

service retirement fund after the date of the enactment of this legislation. Thus, the amendments could apply to divorces or legal separations which took place before the date of enactment, but the amendments will not affect any payments of annuities or lump-sum refunds made prior to such enactment date. In addition, State law will determine if a final divorce decree could be revised; however, the Civil Service Commission would be authorized to honor a decree revised after enactment.

Evaluation of Regulatory, Paperwork and Privacy Impact

The committee anticipates that this legislation will have no adverse impact upon regulatory function, paperwork, or the privacy of individuals.

Set forth below is a statement furnished by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

Congressional Budget Office,
U.S. Congress,
Washington, D.C., July 26, 1978.

Hon. Abraham Ribicoff,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 8771, a bill to amend the civil service retirement provisions concerning the divorce or legal separation of a Federal employee or annuitant.

H.R. 8771 provides that a court decree would determine the appropriate distribution of retirement benefits between a Federal employee (or annuitant) and his estranged spouse. The Civil Service Commission would be responsible for assuring that disbursement of civil service annuities would conform to the determined distribution. Since the distribution does not affect the level of benefits the budgetary impact would be limited to administrative costs borne by the Civil Service Commission.

While we have no precise basis for determining the additional administrative burden that would result from enactment of H.R. 8771, the annual costs 5 years after enactment are estimated to be less than $50,000. This estimate is based on 80,000 civil service retirements per year, a divorce rate of 3 percent, and an administrative cost of $22 per case, expended primarily in manual handling of newly established case files. The cost figure was provided by the Civil Service Commission at the request of the Congressional Budget Office.

Sincerely.

Alice M. Rivlin, *Director.*

Agency Comments

Set forth below are the reports of the Civil Service Commission and the General Accounting Office on H.R. 8771.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 16, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: The Commission is voluntarily submitting its views on a House-passed bill, H.R. 8771 to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

In recent years, many State courts have ruled that future retirement benefits earned during a marriage should be considered community property in the event of a legal separation, divorce, or annulment. The Commission, however, has no authority under the retirement law to recognize such court rulings where Federal employees and annuitants are concerned.

In recent hearings on another bill, H.R. 3951, which would have awarded annuity benefits to former spouses, the Commission in testifying against the provisions of that bill stated that State laws and State courts have always controlled in matters of domestic relations and property rights. These courts are specifically geared to determine such questions as an individual's obligation to a former spouse on an individual case basis after considering many factors such as the financial status of both parties, property settlements, children involved, and the reasons for the divorce.

H.R. 8771 would give the Commission authority to comply with the terms of a court determination in connection with the divorce, annulment, or legal separation of a Federal employee, Member, or annuitant. We have no objection to this provision.

The bill provides that payments which would otherwise be made to an employee, Member, or annuitant based upon his service shall be paid (in whole or in part)—to another person in compliance with the terms of the court determination. It may be well to point out that a payment—refund or annuity—does not otherwise become payable until an application from the individual for such payment is filed with the Commission and the Commission has determined that a benefit is payable. In other words enactment will not authorize the Commission to make such payments until an application is received from the individual.

We would make one other observation for the sake of clarity. H.R. 8771 redesignates the last two subsections of section 8345 of title 5, United States Code, as subsections (h) and (i). The last two subsections referred to in the bill are subsection (g) the second time it appears, and subsection (h) as added by Public Law 94–183, which was inadvertently omitted from this printing of title 5.

The bill appropriately protects against foreign or Mexican divorce courts by defining "court" as any court of any State or the District of Columbia.

In conclusion, the Commissions favors enactment of H.R. 8771 as taking the proper approach to the problem of benefits for former spouses. We should point out that we will have possibly a 6-month problem with implementation if H.R. 8771 is enacted. This is based on our past experience in implementing the law providing for garnishment of annuities for nonpayment of child support and alimony.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission.

Sincerely yours,

ALAN K. CAMPBELL,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 17, 1978.

B–191580.
FPC–78–86

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of March 23, 1978, requested our views and comments on H.R. 8771, a bill to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes.

In recent years, many State courts have ruled that future retirement benefits earned during a marriage should be considered an asset of the marriage to be apportioned in the event of a legal separation, divorce, or annulment. However, in the absence of garnishment orders, the Civil Service Commission has no authority to recognize such court rulings where Federal employees and annuitants are concerned.

H.R. 8771 would give the Commission authority to recognize such rulings when they apply to civil service employees and annuitants. Specifically, the bill provides that payments which would otherwise be made to an employee, Member or annuitant based upon his service shall be paid (in whole or in part) to another person in compliance with the terms of the court determination.

We have no comment on the merits of the proposed bill, and from the standpoint of the civil service retirement fund, we have no objection to its enactment. The bill, however, as currently written, may be too broad in one respect and too restrictive in another respect to best accomplish its objective.

Except as expressly provided by Federal law, payments under the civil service retirement system are not assignable or subject to execution, levy, attachment, garnishment or other legal process. Current law (42 U.S.C. 659) provides for the garnishment of civil service annuity payments in order to enforce court-ordered child support or alimony payments. Limitations are, however, imposed by section 501(e) of Public Law 95–30, May 23, 1977, 91 Stat. 161, (15 U.S.C.

1673 (b)), on the amount of wages or annuities that may be garnished depending on whether the individual is supporting a new spouse or dependent child and how far in arrears the individual is with the payments. The limits range from 50 to 65 percent.

Payments from the civil service retirement fund to a former spouse would not become payable until an employee qualifies for and applies to the Commission for his annuity. The proposed bill contains no limitations on the portions of the annuity that could be awarded; therefore, the entire annuity could be granted to a former spouse. Should this occur, an individual might elect, because of financial reason, to continue working long past his effectiveness. In such cases, neither the employee, former spouse, nor the Government would benefit from this legislation. Because of this the committee may wish to consider adding limitations on the portion of an annuity that would be subject to attachment by a court decree in a property settlement along the lines applicable to garnishment.

H.R. 8771 requires a court decree before any portion of an annuity can become payable to another individual as a result of a property settlement. The second subsection (g) of section 8345 of title 5 of the United States Code provides that an individual entitled to an annuity from the civil service retirement fund may make allotments or assignments from his annuity for such purposes as the Civil Service Commission in its sole discretion considers appropriate. However, the Commission does not currently permit voluntary assignments of any portion of an annuity to a former spouse. The committee may wish to consider expanding H.R. 8771 to cover voluntary assignments of annuities so that an individual may comply with a separation or property settlement agreement that has been entered into voluntarily or prior to the formal adoption of the agreement by a court.

H.R. 8771 applies only to employees covered by the civil service retirement system, thereby creating another inconsistency among Federal retirement systems. We have long been concerned about the many inconsistencies among Federal retirement systems and have recommended that a Federal retirement policy be established to guide the systems on a consistent coordinated basis. Therefore, if H.R. 8771 is favorably considered, the committee may wish to consider expanding its applicability to cover all Federal employees.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5 UNITED STATES CODE

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Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES

* * * * * * *

SUBCHAPTER III—CIVIL SEVICE RETIREMENT

* * * * * * *

§ 8345. Payment of benefits; commencement, termination, and waiver of annuity

(a) * * *

* * * * * * *

[(g)] *(h)* An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from his annuity for such purposes as the Civil Service Commission in its sole discretion considers appropriate.

[(h)] *(i)*(1) No payment shall be made from the Fund unless an application for benefits based on the service of an employee or Member is received in the Civil Service Commission before the one hundred and fifteenth anniversary of his birth.

(2) Notwithstanding paragraph (1) of this subsection, after the death of an employee. Member, or annuitant, no benefit based on his service shall be paid from the Fund unless an application therefor is received in the Civil Service Commission within 30 years after the death or other event which gives rise to title to the benefit.

(j)(1) Payments under this subchapter which would otherwise be made to an employee, Member, or annuitant based upon his service shall be paid (in whole or in part) by the Commission to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree or divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

(2) Paragraph (1) shall only apply to payments made by the Commission under this subchapter after the date of receipt in the Commission of written notice of such decree, order, or agreement, and such additional information and documentation as the Commission may prescribe.

(3) As used in this subsection, "court" means any court of any State or the District of Columbia.

§ 8346. Exemption from legal process; recovery of payments

(a) The money mentioned by this subchapter is not assignable, either in law or equity, except under the provisions of [section 8345 (g)] *subsections (h) and (j) of section 8345* of this title, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

(b) Recovery of payments under this subchapter may not be made from an individual when, in the judgment of the Civil Service Commission, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by this subchpater on account of a certification or payment made by a former employee of the United States in the discharge of his official duties may be made only if the head of the agency on behalf of which the certification or payment was made certifies to the Commission that the certification or payment involved fraud on the part of the former employee.

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Calendar No. 1007

95TH CONGRESS, 2d Session | SENATE | REPORT No. 95-1085

AMENDING TITLE 5, UNITED STATES CODE

AUGUST 10 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. SASSER, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany H.R. 9471]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 9471) to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of this bill is to grant civil service retirement credit to certain Japanese-Americans who were interned or otherwise detained in World War II internment camps and who were 18 years of age or older at the time of such internment.

COMMITTEE ACTION

Hearings on H.R. 9471 were held by the Subcommittee on Civil Service and General Services on May 17, 1978. During the hearings, representatives of World War II internees and numerous Members of Congress testified in favor of this legislation. In addition, the Civil Service Commission submitted testimony which stated that they would not oppose enactment of this legislation.

Thereafter, the subcommittee on July 12, 1978 approved H.R. 9471 by unanimous voice vote.

BACKGROUND

For reasons of national security, President Roosevelt, on March 18, 1942, issued Executive Order 9066, which resulted in the internment

29-010

of approximately 110,000 people of Japanese ancestry. Many of these individuals, two-thirds of whom were American citizens, spent up to 4 years in such camps. The average length of confinement was 2.5 years.

According to testimony presented to the committee, the living conditions in the internment camps were far from adequate. Many of the internees lived in tar paper barracks surrounded by barbed wire fences. Each family had a total space of approximately 20 to 25 feet. Heat was provided by crude wood or coal burinng stoves. Most slept on cotton mattresses filled with straw and placed upon a single iron folding bed.

In addition to the unpleasant living conditions and the emotional stress of internment, many of the internees suffered severe economic hardships. Many were forced to sell their homes and businesses for a fraction of their value and all were stripped of basic freedoms and rights. Their careers and lifestyles were also interrupted as they were uprooted from their communities and forced to relocate.

Nevertheless, those who were interned worked within the camps in which they were interned providing necessary services as doctors, nurses, laborers, teachers, and clerks. Many other internees contributed to the war effort by building camouflage nets, making war posters, and by performing other war related activities. Still other Japanese-Americans served with distinction in the Armed Services during the war and many gave their lives as part of the famed 442nd Regimental Combat Team.

With the closing of the last internment camps in late 1946, a regretful situation was ended. Years later, in recognition of the hardships experienced by the internees, two laws were enacted (Public Law 82-545, and Public Law 86-782) which granted special civil service pay and retirement benefits to those individuals of Japanese ancestry who had been interned and who were employed by the Federal Government as as July 15, 1952. However, these benefits were limited to those employees who (1) were separated from Federal service; (2) lost opportunity for or were denied appointment to a civil service position; or (3) were denied reinstatement to a civil service position.

Subsequent to the enactment of Public Laws 82-545 and 86-782, the 92d Congress, in recognition of the services performed by Japanese-Americans during the most trying of times, as well as a desire to partially compensate those men and women for the indignities which they had suffered, enacted Public Law 92-603 which granted social security credit to Japanese-Americans for the periods of their confinement, after age 18, in World War II internment camps.

The committee has found that there are a small number of individuals, approximately 500, who have received little or no benefit from the above mentioned legislation. These are the World War II internees who entered Federal service after July 15, 1952. As Federal employees, many will not qualify for social security benefits. This legislation recognizes the hardships experienced by these individuals and provides for them benefits similar to those granted by the Congress to other internees.

The committee is also cognizant of the fact that the Civil Service Commission, in the past, has strongly opposed bills in this area.

However, as stated in testimony to the subcommittee, "while still opposing the principle of granting credit for periods where there was no federal service, the Commission, because of the unique circumstances of this group of Japanese-Americans, does not oppose enactment."

Section-by-Section Analysis

SECTION 1

Subsection (a) of the first section of the bill amends section 8332 of title 5, United States Code, relating to creditable service for civil service retirement purposes, by adding a new subsection (l) at the end of that section. Paragraph (1) of the new subsection (l) authorizes civil service retirement credit for any employee or Member of Congress who is of Japanese ancestry and who, while a U.S. citizen or an alien lawfully admitted to the United States, was interned or otherwise detained in any camp, installation or other facility in the United States (or a territory or possession thereof) at any time during World War II. The internment or detention of the individual must have been under a policy or program of the United States which was established during World War II in the interests of national security pursuant to a statute, rule, regulation or order, such as Executive order No. 9066 or No. 9489, Under subsection (l), retirement credit is authorized only for that portion of the period of internment or detention occurring after the employee or member attained 18 years of age. The creditable service authorized by subsection (l) is considered to be civilian service for purposes of the civil service retirement provisions.

Paragraph (2) of the new subsection (l) provides that for purposes of that subsection, the term "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946.

Subsection (b) of the first section of the bill amends section 8334 (g) of title 5, United States Code, by adding at the end thereof a new paragraph (6) containing a reference to the service which is creditable under the new section 8332(l). Section 8334(g) provides that deposits for creditable service for which no retirement deductions were made may not be required for certain types of ser ice specified in that section. Therefore, the effect of this amendment is to provide that no deposit shall be required for any retirement credit allowed under the new section 8332(l).

SECTION 2

Subsection (a) of section 2 provides that the amendments made by the bill shall take effect on the first day of the first month which begins after the date of the enactment of the bill.

Subsection (b) of section 2 provides that the amendments made by the first section of the bill shall apply to annuities which commence before, on, or after the effective date of the bill (determined under subsection (a)), but no monetary benefit resulting from such amendments shall accrue for any period before such effective date. Thus, while the provisions of subsection (b) retroactively vest entitlement to additional creditable service in certain annuitants and survivors, the payment of benefits resulting from such additional cerditable service will be made prospectively only.

Paragraph (1) of subsection (c) provides for the recomputation of annuities or survivor annuities to reflect the additional service which is creditable under the new section 8332(l). Annuities will be recomputed only upon application to the Civil Service Commission. Paragraph (2) of subsection (c) provides that the recomputation of an annuity under paragraph (1) will apply with respect to months beginning more than 30 days after the date on which the application is received in the Civil Service Commission.

Paragraph (1) of subsection (d) requires the Civil Service Commission to take whatever action may be necessary and appropriate to inform employees, annuitants, and survivors of their entitlement to creditable service and recomputation of annuities under the bill.

Paragraph (2) of subsection (d) requires the Commission to assist any individual in obtaining from any Federal agency such information as may be necessary to verify that individual's entitlement to the creditable service or recomputation of annuity authorized under the bill.

Paragraph (3) of subsection (d) requires any Federal agency which possesses any information relating to the interment of an employee or Member, as described in section 8332(l), to furnish such information to the Civil Service Commission when requested by the Commission.

Evaluation of Regulatory, Paperwork, and Privacy Impact

The committee anticipates that this legislation will have no adverse impact upon regulatory function, paperwork, or the privacy of individuals.

Estimated Cost

Set forth below is a statement furnished by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1978.

Congressional Budget Office,
U.S. Congress,
Washington, D.C., July 26, 1978.

Hon. Abraham Ribicoff,
Chairman, Committee on Governmental Affairs, U.S. Senate, 3308 Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman. Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 9471, a bill to amend Title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 9471.

2. Bill title: A bill to amend Title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps.

3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs, July 24, 1978.

4. Bill purpose: The bill provides civil service retirement credit for Japanese-Americans who were interned by the U.S. Government. Credit shall be allowed to individuals 18 or more years of age for any period interned between December 7, 1941, and December 31, 1946.

5. Cost estimate:

	Millions
Fiscal year 1979:	
Budget authority	$0.62
Outlays	.24
Fiscal year 1980:	
Budget authority	.62
Outlays	.28
Fiscal year 1981:	
Budget authority	.62
Outlays	.33
Fiscal year 1982:	
Budget authority	.62
Outlays	.33
Fiscal year 1983:	
Budget authority	.62
Outlays	.44

Enactment of H.R. 9471 would increase the unfunded liability of the Civil Service Retirement System by an estimated $9.96 million. An annual appropriation of $0.62 million over the next 30 years must be requested by the Civil Service Commission to amortize the increased liability. Outlays represent the additional payment of benefits to individuals affected by the proposed legislation.

The costs of this bill fall within budget function 600.

6. Basis of estimate: This estimate assumes enactment of H.R. 9471 on or about September 1, 1978.

Enactment of H.R. 9471 would result in a recomputation of benefits for current annuitants affected by the proposed legislation, and prospective increases in annuities for current employees. The critical variables in estimating the 5-year cost impact are: the number of individuals affected by the retirement credit provisions, the average length of time interned, and the final salary at the time of retirement. The unfunded liability cost per individual was developed by the Civil Service Commission at the request of CBO. In deriving the unfunded liability estimate, the Civil Service Commission followed its customary practice of not including cost-of-living adjustments in its calculations.

Cost variables

I. Budget authority:	
A. Unfunded liability per individual (Assumes 30 years of service, retirement at age 55, $15,000 salary, and 2.5 years internment)	$13,600
B. Number of internees over 18 and less than 50 years of age (Based on data provided by the Committee for Internment Credit)	56,312

C. Percentage of Oriental-Americans employed by the Federal Government (Based on 1970 Census and Civil Service Commission data regarding number of Oriental-Americans—excludes Hawaii) (Percent) 1.3

Increase in unfunded liability (Derived from multiplying A×B×C) $9, 955, 961

Budget authority (Annual 30-year payment amortized at 5 percent) $616, 808

II. Outlays:

A. Estimated number of current retirees affected (Based on data provided by the committee for Internment Credit) 300

B. Estimated number of new retirees per year 49

C. Incremental cost per individual (2.5 years×2 percent×$15,000) $750

5-YR OUTLAYS

[Fiscal years; in thousands of dollars

	1979	1980	1981	1982	198
Current retirees	225	225	285	315	36
New retirees [1]	15	15	15	15	1
Annuity increases [2]		16	37	63	9
Reductions [3]		−3	−7	−12	−1
Total	240	283	330	381	43

[1] Assumes 1/12 of new annuitants retire each month.
[2] Increases due to pay increase and annuity cost-of-living adjustments are estimated to be 6 percent per year.
[3] Reductions due to annual mortality factor of 0.99.

7. Estimated comparison: None.

8. Previous CBO estimate: On October 26, 1977, CBO transmitted a cost estimate for the version of H.R. 9471 ordered reported by the House Committee on Post Office and Civil Service. This estimate is identical to the previous one.

9. Estimate prepared by: David M. Delquadro.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director,
for Budget Analysis.

AGENCY COMMENTS

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 16, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Governmental Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: The Commission is voluntarily submitting for your consideration its views on H.R. 9471, a bill to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps.

H.R. 9471 would allow civil service retirement credit for time spent in World War II internment camps by Jananese-Americans who are not already entitled to credit under the provisions of Public Law 82–545 and Public Law 86–782.

Public Law 82–545 (approved July 15, 1952) granted special benefits for pay purposes to certain of these Japanese-Americans who were employees of the postal field service or subject to the Classification Act of 1949 on the date of enactment. Such an employee who at any time during the period December 7, 1941 to September 3, 1945, by reason of the policy or program of the United States, or for purposes of entering the Armed Forces, (1) was separated from the Federal service, (2) lost opportunity for, or was denied, probational appointment from a civil service register, or (3) was denied reinstatement to such position, was given the grade, time in grade, and rate of compensation which he would have attained automatically if such program or policy had not been in effect. These dates cover the period during which the United States and Japan were officially engaged in war.

Public Law 86–782 (approved September 14, 1960) amended Public Law 82–545 to add a grant to such employees of credit for Civil Service Retirement and leave purposes for—

(1) each period of internment;

(2) each period during which any loss of opportunity for or denial of appointment occurred;

(3) each period resulting from denial of reinstatement; and

(4) each period resulting from separation from the service.

H.R. 9471 proposes to allow civil service retirement credit for time spent by Japanese-Americans in World War II internment camps who later become federally employed. The bill would also extend retirement credit to an internee's survivor for purposes of increasing his or her annuity and, in addition would remove the requirement that these individuals must have been employed in the postal field service or subject to the Classification Act of 1949 on July 15, 1952, the date of enactment of Public Law 82–545.

H.R. 9471 would limit credit to periods of internment after the internee attained age 18. This provision is similar to the law granting social security credit for periods of internment. The dates in H.R. 9471 also reflect the exact dates during which internment can be credited for social security (Dec. 7, 1941 to Dec. 31, 1946). In previous reports on similar bills the Commission has stated that we have no objection to extending the period of time which may be credited under Public Law 82–545 from December 7, 1941 to September 3, 1945 to December 7, 1941 to December 31, 1946, if the employee can show that he or she met the established criteria that he or she was either uprooted from his or her Federal job or denied a Federal appointment during that period. These dates are reasonable because there were no internment camps prior to December 7, 1941, nor after late 1946. Furthermore, we have stated that we do not object to removing the limitation that an individual to be eligible for such benefits must have been employed in the postal field service or subject to the Classification Act of 1949 on the date of enactment of Public Law 82–545. These limitations appeared to us to arbitrarily exclude certain Japanese-Americans who were also uprooted from their jobs or denied appointment from a civil service register, as a result of internment during World War II but were not Federal employees at that time.

Although H.R. 9471 allows credit to individuals who do not meet the previously established criteria that they were either uprooted from a

Federal job or denied a Federal appointment during the period of internment, the Commission notes that because of the age limitation incorporated in H.R. 9471, there would only be a few people affected by its enactment. Therefore, while still opposing the principle of granting credit for non-Federal service, the Commission, because of the unique circumstances of this group of Japanese-Americans and because non-Federal employees receive credit for similar service under Social Security, does not oppose enactment of H.R. 9471.

We have no specific data on the number of employees who would be affected or the amount of service which could become creditable.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

By direction of the Commission.

Sincerely yours,

ALAN K. CAMPBELL, *Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS AMENDED

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic);

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

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CHAPTER 83—RETIREMENT

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SUBCHAPTER III—CIVIL SERVICE RETIREMENT

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§ 8332. Creditable service

(a) The total service of an employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service of the Government. Credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—

(1) employment as a substitute in the postal field service;

(2) service in the Pan American Sanitary Bureau;

(3) subject to sections 8334(c) and 8339(i) of this title, service performed before July 10, 1960, as an employee of a county committee established under section 590h(b) of title 16 or of a committee or an association of producers described by section 610(b) of title 7;

(4) service as a student-employee as defined by section 5351 of this title only if he later becomes subject to this subchapter;

(5) a period of satisfactory service of a volunteer or volunteer leader under chapter 34 of title 22 only if he later becomes subject to this subchapter;

(6) employment under section 709 of title 32, United States Code, or any prior corresponding provision of law;

(7) a period of service of a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B or C of title I of the Domestic Volunteer Service Act of 1973 only if he later becomes subject to this subchapter;

(8) subject to sections 8334(c) and 8339(i) of this title, service performed on or after February 19, 1929, and before noon on January 3, 1971, as a United States Capitol Guide; and

(9) subject to sections 8334(c) and 8339(i) of this title, service as a substitute teacher for the government of the District of Columbia after July 1, 1955, if such service is not credited for benefits under any other retirement system established by a law of the United States.

The Civil Service Commission shall accept the certification of the Secretary of Agriculture or his designee concerning service for the purpose of this subchapter of the type performed by an employee named by paragraph (3) of this subsection. The Civil Service Commission shall accept the certification of the Capitol Guide Board concerning service for the purpose of this subchapter of the type described in paragraph (8) of this subsection and performed by an employee. For the purpose of paragraph (5) of this subsection—

(A) a volunteer and a volunteer leader are deemed receiving pay during their service at the respective rates of readjustment allowances payable under sections 2504(c) and 2505(1) of title 22; and

(B) the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and the termination of that service by the President or by death or resignation.

Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United States Code, on or after the effective date of the National Guard Technicians Act of 1968.

(c) Except as provided by subsection (d) of this section, an employee or Member shall be allowed credit for periods of military service before the date of the separation on which title to annuity is based. However, if an employee or Member is awarded retired pay on account of military service, his military service may not be credited unless the retired pay is awarded—

(1) on account of a service-connected disability—

(A) incurred in combat with an enemy of the United States; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

(2) under chapter 67 of title 10.

(d) For the purpose of section 8339(c)(1) of this title, a Member—

(1) shall be allowed credit only for periods of military service not exceeding 5 years, plus military service performed by the Member on leaving his office, for the purpose of performing military service, during a war or national emergency proclaimed by the President or declared by Congress and before his final separation from service as Member; and

(2) may not receive credit for military service for which credit is allowed for purpose of retired pay under other statute.

(e) This subchapter does not affect the right of an employee or Member to retired pay, pension, or compensation in addition to an annuity payable under this subchapter.

(f) Credit shall be allowed for leaves of absence without pay granted an employee while performing military service or while receiving benefits under subchapter 1 of chapter 81 of this title. An employee or former employee who returns to duty after a period of separation is deemed, for the purpose of this subsection, to have been in a leave of absence without pay for that part of the period in which he was receiving benefits under subchapter I of chapter 81 of this title or any earlier statute on which such subchapter is based. Except for a substitute in the postal field service, credit may not be allowed for so much of other leaves of absence without pay as exceeds 6 months in the aggregate in a calendar year.

(g) An employee who during the period of a war, or of a national emergency as proclaimed by the President or declared by Congress, leaves his position to enter the military service is deemed, for the purpose of this subchapter, as not separated from his civilian position because of that military service, unless he applies for and receives a lump-sum credit, under this subchapter. However, the employee is deemed as not retaining his civilian position after December 31, 1956, or after the expiration of 5 years of that military service, whichever is later.

(h) An employee who—

(1) has at least 5 years' Member service; and

(2) serves as a Member at any time after August 2, 1946;

may not be allowed credit for service which is used in the computation of an annuity under section 8339(c) of this title.

(i) An individual who qualifies as an employee under section 8331(1)(E) of this title is entitled to credit for his service as a United States Commissioner, which is not credited for the purpose of this subchapter for service performed by him in a capacity other than Commissioner, on the basis of—

(1) $\frac{1}{312}$ of a year for each day on which he performed service as a Commissioner before July 1, 1945; and

(2) $\frac{1}{260}$ of a year for each day on which he performed service as a Commissioner after June 30, 1945.

Credit for service performed as Commissioner may not exceed 313 days in a year before July 1, 1945, or 260 days in a year after July 30, 1945. For the purpose of this subchapter, the employment and pay of a Commissioner is deemed on a daily basis when actually employed.

(j) Notwithstanding any other provision of this section, military service, except military service covered by military leave with pay from a civilian position, performed by an individual after December 1956, the period of an individual's service as a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, and the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22, shall be excluded in determining the aggregate period of service on which an annuity payable under this subchapter to the individual or to his widow or child is based, if the individual, widow, or child is entitled, or would on proper application be entitled, at the time of that determination, to monthly old-age or survivors benefits under section 403 of title 42 based on the individual's wages and self-employment income. If the military service or service as a volunteer under part A of title VIII of the Economic Opportunity Act of 1954 or as a volunteer or volunteer leader under chapter 34 of title 22 is not excluded by the preceding sentence, but on becoming 62 years of age, the individual or widow becomes entitled, or would on proper application be entitled, to the described benefits, the Civil Service Commission shall redetermine the aggregate period of service on which the annuity is based, effective as of the first day of the month in which he or she becomes 62 years of age, so as to exclude that service. The Secretary of Health, Education, and Welfare, on request of the Commission, shall inform the Commission whether or not the individual, widow, or child is entitled at any named time to the described benefits. For the purpose of this subsection, the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and termination of that service by the President or by death or resignation, and the period of an individual's service as a volunteer under part A of title VIII of the Economic Opportunity Act of 1954 is the period between enrollment as a volunteer and termination of that service by the Director of the Office of Economic Opportunity or by death or resignation.

(k)(1) An employee who enters on approval leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8331(1) of this title, which 60 days after entering on that leave without pay, may file with his employing agency an election to receive full retirement credit for his periods of that leave without pay and arrange to pay currently into the Fund, through his employing agency, amounts equal to the retirement deductions and agency contributions that would be applicable if he were in pay status. If the election and all payments provided by this paragraph are not made, the employee may not receive credit for the periods of leave without pay occurring after July 17, 1966, notwithstanding the second sentence of subsection (f) of this section. For the purpose of the preceding sentence, "employee" in-

cludes an employee who was on approved leave without pay and serving as a full-time officer or employee of such an organization on July 18, 1966, and who filed a similar election before September 17, 1966.

(2) An employee may deposit with interest an amount equal to retirement deductions representing any period or periods of approved leave without pay while serving, before July 18, 1966, as a full-time officer or employee of an organization composed primarily of employees as defined by section 8331(1) of this title. An employee who makes the deposit shall be allowed full retirement credit for the period or periods of leave without pay. If the employee dies, a survivor as defined by section 8331(10) of this title may make the deposit. If the deposit is not made in full, retirement credit shall be allowed in accordance with the second sentence of subsection (f) of this section.

(l)(1) Any employee or Member who—

(A) is of Japanese ancestry; and

(B) while a citizen of the United States or an alien lawfully admitted to the United States for permanent residence, was interned or otherwise detained at any time during World War II in any camp, installation, or other facility in the United States, or in any territory or possession of the United States, under any policy or program of the United States respecting individuals of Japanese ancestry which was established during World War II in the interests of national security pursuant to—

(i) Executive Order Numbered 9066, dated February 19, 1942;

(ii) section 76 of the Act entitled "An Act to provide a government for the Territory of Hawaii, approved April 30, 1900 (chapter 339, Fifty-sixth Congress; 31 Stat. 153);

(iii) Executive Order Numbered 9489, dated October 18, 1944;

(iv) sections 4067 through 4070 of the Revised Statutes of the United States; or

(v) any other statute, rule, regulation, or order;

shall be allowed credit (as civilian service) for any period during which such employee or Member was so interned or otherwise detained after such employee became 18 years of age.

(2) For the purpose of this subsection, "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946.

* * * * * * *

§ 8334. Deductions, contributions, and deposits

(a)(1) * * *

* * * * * * *

(g) Deposit may not be required for—

(1) service before August 1, 1920;

(2) military service;

(3) service for the Panama Railroad Company before January 1, 1924;

(4) service performed before January 1, 1950, by natives of the Pribilof Islands in the taking and curing of fur seal skins

and other activities in connection with the administration of the Pribilof Islands; [or]

(5) days of unused sick leave credited under section 8339(m) of this title[.]; *or*

(6) any period for which credit is allowed under section 8332(l) of this title.

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Calendar No. 1008

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95–1087

NATIONAL PORT WEEK

AUGUST 10 (legislative day MAY 17), 1978.—Ordered to be printed

Mr. THURMOND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S.J. Res. 148]

The Committee on the Judiciary, to which was referred the joint resolution (S.J. Res. 148), having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

PURPOSE

The purpose of the joint resolution is to authorize and request the President to issue a proclamation designating the week beginning on September 17, 1978, as "National Port Week."

STATEMENT

This resolution would bring to the attention of the American people the contributions that our ocean and inland ports have had in expanding our development as a great trading nation.

COST

No cost would result from the enactment of the Senate Joint Resolution 148.

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Calendar No. 1009

95TH CONGRESS, 2d Session } SENATE { REPORT No. 95-1088

WAIVER OF SECTION 402(a) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 3279

AUGUST 10 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MUSKIE, from the Committee on the Budget, submitted the following

REPORT

[To accompany S. Res. 510]

The Committee on the Budget, to which was referred the resolution, Senate Resolution 510, waiving section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to consideration of S. 3279, a bill to provide assistance to aircraft operators to aid them in complying with Federal aircraft noise standards, to amend the Airport and Airway Development Act of 1970 to provide assistance to airport operators and aircraft operators to aid them in complying with noise standards, and for other purposes, reports favorably thereon and recommends that the resolution be adopted.

PURPOSE OF THE RESOLUTION

Section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because S. 3279 authorizes the enactment of new budget authority which would be available in fiscal year 1979, and the bill was reported after May 15, 1978, a resolution waiving section 402(a) with regard to S. 3279 must be adopted before the Senate may consider the bill. In reporting favorably on Senate Resolution 510, the Budget Committee is recommending that the Senate proceed to consideration of S. 3279, but is not otherwise prejudging the merits of the bill.

Committee criteria

The Budget Committee is extremely reluctant to recommend the adoption of resolutions waiving section 402(a) of the Budget Act. This section was included in the Budget Act to insure that all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the First Concurrent Resolution. In addition, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year so that the Appropriations Committee can meet the appropriations timetable spelled out in the Budget Act.

Legislation authorizing the enactment of new budget authority which is reported to the Senate after May 15 could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances, the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a) of the Budget Act, will consider factors including: the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and whether the enactment of the authorization will significantly affect the national priorities established in the congressional budget.

BUDGET CONSIDERATIONS

S. 3279 authorizes appropriation of up to $15 million, beginning in fiscal year 1979, for noise compatibility program grants to air carrier airport sponsors. It is this authorization which necessitates a waiver of section 402(a) for the bill.

S. 3279 also provides direct spending authority of up to $35 million in fiscal year 1980 for grants to airport operators and local governments to carry out noise compatibility programs and increases by $260 million the amount of direct spending authority available under the Airport Development Aid Program for fiscal year 1980 for airport development grants. These provisions require a waiver of Section 303(a) of the Budget Act, which is the subject of a separate Budget Committee report.

According to the Committee on Commerce, Science and Transportation, without enactment of this bill, federal assistance for noise reduction will be delayed for at least one year, and may never be enacted at all. In the absence of assistance, the air carriers will have to meet noise standards on their own, financing retrofit and replacement from earnings or debt.

In addition, enactment of air regulatory reform legislation could be seriously jeopardized if this bill is not enacted because the House of Representatives has indicated an insistence that both bills be considered simultaneously. The regulatory reform legislation, which has passed the Senate, has been under active consideration for more than three years and would have to start over in the 96th Congress. Passage of an air regulatory reform bill has been supported by the Budget Committee in part because of its expected anti-inflationary impact.

S. 3279 is consistent with the First Resolution's fiscal year 1979 targets, but not with the 5-year targets. However, because the authorization of the Airport and Airway Trust Funds expires at the end of fiscal year 1980, both trust fund and the ADAP program must be reauthorized by the next Congress. This means that adoption of the waiver would not represent a permanent loss of Congressional budget control over the legislation.

The Committee on Commerce, Science and Transportation reported the bulk of its authorizing legislation by the May 15 deadline. The committee had originally intended to consider this noise legislation next year, but concluded in late April that action this year was necessary in order to facilitate a conference on air regulatory reform legislation.

To permit orderly consideration of S. 3279, the Budget Committee reports favorably on Senate Resolution 510 and recommends its adoption.

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Calendar No. 1010

95TH CONGRESS 2d Session } SENATE { REPORT No. 95–1089

WAIVER OF SECTION 303(a) OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF S. 3279

AUGUST 10 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. MUSKIE, from the Committee on the Budget, submitted the following

REPORT

[To accompany S. Res. 527]

The Committee on the Budget, to which was referred the resolution, Senate Resolution 527, waiving section 303(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to consideration of S. 3279, a bill to assist airport operators and air carriers in complying with Federal noise standards, and to increase spending authorizations under the Airport Development Aid Program (ADAP) reports favorably thereon and recommends that the resolution be adopted.

PURPOSE OF THE RESOLUTION

Section 303(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House or the Senate to consider any bill or resolution or any amendment thereto providing new budget authority, new spending authority, or changes in revenues or public debt for a fiscal year until the first concurrent resolution on the budget for such fiscal year has been adopted. Since S. 3279 would provide direct spending authorizations for fiscal year 1980, a year for which the Congress has not enacted a First Budget Resolution, a waiver of section 303(a) of the Budget Act is necessary before the bill can be taken up on the Senate floor. In reporting favorably on the resolution waiving application of Section 303(a) to S. 3279, the Budget Committee is recommending that the Senate proceed to consideration of the bill, but is not prejudging the merits of the bill.

COMMITTEE CRITERIA

The Budget Committee is extremely reluctant to recommend the adoption of a resolution waiving section 303(a) of the Budget Act. One

of the major purposes of the Congressional Budget Act was to bring the Federal budget under better control. Through the adoption each year of the first and second concurrent resolutions on the budget, Congress sets fiscal policy and national priorities for the fiscal year.

If legislation affecting spending or revenues for a future fiscal year is considered prior to the adoption of the First Concurrent Resolution on the budget for that year, to that extent Congress loses control of the spending and priority decisions for that year prior to adoption of a congressional budget for that year. However, the Budget Act recognized that in some situations it may be appropriate to consider such legislation before the adoption of the First Concurrent Resolution.

BUDGET CONSIDERATIONS

S. 3279 provides direct spending authority of up to $35 million in fiscal year 1980 for grants to airport operators and local governments to carry out noise compatibility programs and increases by $260 million the amount of direct spending authority available under the Airport Development Aid Program for fiscal year 1980 for airport development grants. These provisions require a waiver of Section 303(a) of the Budget Act.

S. 3279 also authorizes appropriation of up to $15 million, beginning in fiscal year 1979, for noise compatibility program grants to air carrier airport sponsors. This authorization necessitates a waiver of section 402(a) for the bill, which is the subject of a separate Budget Committee report.

The Budget Committee has concluded that it is appropriate to waive section 303(a) in the case of S. 3279. According to the Committee on Commerce, Science and Transportation, preventing consideration of the legislation until after the 1980 First Budget Resolution is adopted would mean that air carriers would have to meet noise standards without Federal assistance. Enactment of a new airport noise abatement grant program would be delayed at least 1 year, and enactment of air regulatory reform legislation would be delayed or perhaps defeated.

Although enactment of this legislation provides direct spending authority which will spend out in future years for which no budget resolution has been adopted, the authorization of the Airport and Airway Trust Fund expires at the end of fiscal year 1980, and both trust fund and the ADAP program must be reauthorized by the next Congress. Thus, adoption of the waiver would not represent a permanent loss of congressional budget control over the legislation.

Under these circumstances the committee believes that Senate consideration of S. 3279 is not so inconsistent with the congressional budget process as to be inappropriate and recommends that the resolution be adopted. The committee, in recommending the adoption of the resolution, does not necessarily endorse the bill or its funding levels.

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95TH CONGRESS } SENATE { REPORT
2d Session } { No. 95-1091

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978

AUGUST 10 (legislative day MAY 17), 1978.—Ordered to be printed

Mr. JACKSON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 9]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1978".

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Sec. 206. Outer Continental Shelf oil and gas exploration.
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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(8) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(9) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(10) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(11) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States, working in close cooperation with affected local

governments, are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(12) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(13) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation;

(14) the oil and gas resources of the Outer Continental Shelf are limited, nonrenewable resources which must be developed in a manner which takes into consideration the Nation's long-range energy needs and also assures adequate protection of the renewable resources of the Outer Continental Shelf which are a continuing and increasingly important source of food and protein to the Nation and the world; and

(15) funds must be made available to pay for damage to commerical fishing vessels and gear resulting from activities involving oil and gas exploration, development, and production on the Outer Continental Shelf.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf which are intended to result in expedited exploration and development of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time; and

(10) establish a fishermen's contingency fund to pay for damages to commercial fishing vessels and gear due to Outer Continental Shelf activities.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraphs (b) and (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (b) and (c)) are amended to read as follows:

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be;

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, minerals;".

(b) Such section is further amended—

(1) in paragraph (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes,

wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is, or is proposed to be, directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of minerals in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(q) The term 'minerals' includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from 'public lands' as defined in section 103 of the Federal Land Policy and Management Act of 1976.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the minerals of the outer Continental Shelf will have significant impacts on coastal and non-coastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)(1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(a)(2) of such Act is amended by redesignating paragraph (2) as (2)(A) and by adding at the end thereof the following new subparagraph:

"(B) Within one year after the date of enactment of this subparagraph, the President shall establish procedures for settling any outstanding international boundary dispute respecting the outer Continental Shelf.".

(c) Section 4(c) of such Act is amended by striking out "described in subsection (b)" and inserting in lieu thereof "conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources, or involving rights to the natural resources, of the subsoil and seabed of the outer Continental Shelf".

(d) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(e) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(f) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(g) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(h) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. In considering any regulations and in preparing any such views, the Attorney General shall consult with the Federal Trade Commission. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease or to allow for the construction or negotiation for use of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by suspension or prohibition under clause (A) or (B) by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued with respect to such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to

any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

"(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee;

"(C) that such cancellation shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oilspill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that (I) with respect to leases issued before the date of enactment of this subparagraph, such compensation shall be equal to the amount specified in clause (i) of this subparagraph; and (II) in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitization, pooling, and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the Federal Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area; and

"(8) for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under this Act significantly affect the air quality of any State.

"(b) The issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this

Act shall be conditioned upon compliance with regulations issued under this Act.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, of the lease, or of the regulations issued under this Act, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other minerals, or under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) assuring maximum environmental protection by utilization of the best available and safest technologies, including the safest practices for pipeline burial and upon the express condition that oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from submerged lands or outer Continental Shelf lands in the vicinity of the pipelines in such proportionate amounts as the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.

"(f)(1) Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles:

"(A) The pipeline must provide open and nondiscriminatory access to both owner and nonowner shippers.

"(B) Upon the specific request of one or more owner or nonowner shippers able to provide a guaranteed level of throughput, and on the condition that the shipper or shippers requesting such expansion shall be responsible for bearing their proportionate share of the costs and risks related thereto, the Federal Energy Regulatory Commission may, upon finding, after a full hearing with due notice thereof to the interested parties, that such expansion is within technological limits and economic feasibility, order a subsequent expansion of throughput capacity of any pipeline for

which the permit, license, easement, right-of-way, or other grant of authority is approved or issued after the date of enactment of this subparagraph. This subparagraph shall not apply to any such grant of authority approved or issued for the Gulf of Mexico or the Santa Barbara Channel.

"(2) The Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed.

"(3) The Secretary of Energy and the Federal Energy Regulatory Commission shall consult with and give due consideration to the views of the Attorney General on specific conditions to be included in any permit, license, easement, right-of-way, or grant of authority in order to ensure that pipelines are operated in accordance with the competitive principles set forth in paragraph (1) of this subsection. In preparing any such views, the Attorney General shall consult with the Federal Trade Commission.

"(4) Nothing in this subsection shall be deemed to limit, abridge, or modify any authority of the United States under any other provision of law with respect to pipelines on or across the outer Continental Shelf.

"(g)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary of Energy which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(h) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify the Governor of any affected State and the Secretary may thereafter recommend such changes in such action as are considered appropriate.

"(i) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to bids that are accepted and to the unsuccessful bidders as to bids that are rejected. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount for exploration or a fixed cash bonus as determined by the Secretary, or both;

"(C) cash bonus bid, or work commitment bid based on a dollar amount for exploration with a fixed cash bonus, and a diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) work commitment bid based on a dollar amount for exploration with a fixed cash bonus and a fixed royalty in amount or value of the production saved, removed, or sold; or

"(H) subject to the requirements of paragraph (4) of this subsection, any modification of bidding systems authorized in subparagraphs (A) through (G), or any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this Act, except that no such bidding system or modification shall have more than one bid variable.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years after the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means,

reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) *The Secretary of Energy shall submit any bidding system authorized in subparagraph (H) of paragraph (1) to the Senate and House of Representatives. The Secretary may institute such bidding system unless either the Senate or the House of Representatives passes a resolution of disapproval within thirty days after receipt of the bidding system.*

"(B) *Subparagraphs (C) through (J) of this paragraph are enacted by Congress—*

"(i) *as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this paragraph, and they supersede other rules only to the extent that they are inconsistent therewith; and*

"(ii) *with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.*

"(C) *A resolution disapproving a bidding system submitted pursuant to this paragraph shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.*

"(D) *If the committee to which has been referred any resolution disapproving the bidding system of the Secretary has not reported the resolution at the end of ten calender days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to dicharge the committee from further consideration of any other resolution with respect to the same bidding system which has been referred to the committee.*

"(E) *A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.*

"(F) *If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same bidding system.*

"(G) *When the committee has reported, or has been discharged from further consideration of, a resolution as provided in this paragraph, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.*

"(H) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(I) Motions to postpone, made with respect to the discharge from the committee, or the consideration of a resolution with respect to a bidding system, and motions to proceed to the consideration of other business, shall be decided without debate.

"(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a bidding system shall be decided without debate.

"(5)(A) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require, as to no more than 10 per centum of the tracts offered each year, each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random for the acquisition of valid statistical data if such bidding alternative is otherwise consistent with the provisions of this Act.

"(B) The bidding systems authorized by paragraph (1) of this subsection, other than the system authorized by subparagraph (A), shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for leasing each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirements set forth in this subparagraph are inconsistent with the purposes and policies of this Act.

"(6) At least ninety days prior to notice of any lease sale under subparagraph (D), (E), (F), or, if appropriate, (H) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee.

"(7) After an oil and gas lease is granted pursuant to any of the work commitment options of paragraph (1) of this subsection—

"(A) the lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) a cash deposit for the full amount of the exploration work commitment, or (ii) a performance bond in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work commitment assuring the Secretary that such commitment shall be faithfully discharged in accordance with this section, regulations, and the lease; and for purposes of this subparagraph, the principal amount of such cash deposit or bond may, in accordance with regulations, be periodically reduced upon proof,

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satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied;

"(B) 50 per centum of all exploration expenditures on, or directly related to, the lease, including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations including seismic, geomagnetic, and gravity surveys, data processing and interpretation, and (iii) exploratory drilling, core drilling, redrilling, and well completion or abandonment, including the drilling of wells sufficient to determine the size and areal extent of any newly discovered field, and including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment, except that the lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included; and

"(C) if at the end of the primary term of the lease, including any extension thereof, the full dollar amount of the exploration work commitment has not been satisfied, the balance shall then be paid in cash to the Secretary.

"(8) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

"(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

"(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (H) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

"(9) Within six months after the end of each fiscal year, the Secretary of Energy, in consultation with the Secretary of the Interior, shall report to the Congress with respect to the use of various bidding options provided for in this subsection. Such report shall include—

"(A) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(B) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(C) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(D) if applicable, the reasons why a particular bidding system has not been or will not be utilized; and

"(E) if applicable, the reasons why more than 60 per centum or less than 20 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may

determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"*(2) be for an initial period of—*

"*(A) five years; or*

"*(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions,*

and as long after such initial period as oil or gas is produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"*(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;*

"*(4) entitle the lessee to explore, develop, and produce the oil and gas contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this Act;*

"*(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;*

"*(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and*

"*(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced on such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.".*

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (i) through (o), respectively, and by inserting immediately after subsection (b) the following new subsections:

"*(c)(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.*

"*(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.*

"*(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary,*

including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

"(A) refuse (i) to accept an otherwise qualified bid for such lease, or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

"(B) issue such lease, and notify the lessee and the Attorney General of the reason for such decision.

"(4)(A) Nothing in this subsection shall restrict the power under any other Act or the common law of the Attorney General, the Federal Trade Commission, or any other Federal department or agency to secure information, conduct reviews, make recommendations, or seek appropriate relief.

"(B) Neither the issuance of a lease nor anything in this subsection shall modify or abridge any private right of action under the antitrust laws.

"(d) No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other leases.

"(e) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General.

"(f) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(g)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of such State—

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of such coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing. The Secretary, in consultation with the Governor of the coastal State, shall then determine whether any such area may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields

underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(h) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

(c) Subsection (c) of section 105 of the Energy Policy and Conservation Act (42 U.S.C. 6213(c)) is amended to read as follows:

"(c) The Secretary may, in his discretion, consider a request from any person described in subsection (a) of this section for an exemption from the prohibition of this section. In considering any such request, the Secretary may exempt bidding for leases for lands in any area only if the Secretary finds, on the record after opportunity for an agency hearing, that—

"(1) such lands have extremely high cost exploration or development problems; and

"(2) exploration and development will not occur on such lands unless such exemption is granted.

Findings of the Secretary under this subsection shall be final, and shall not be invalidated unless found to be arbitrary or capricious.".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended—

(1) by inserting "(a)(1)" immediately before "Any"; and

(2) by adding at the end thereof the following:

"(2) *The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.*

"(b) *Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.*

"(c) (1) *Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, including regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 5(a)(2)(A)(i) of this Act, and (B) such proposed activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he may, subject to section 5(a)(2)(B) of this Act, cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 5(a)(2)(C) (i) or (ii) of this Act.*

"(2) *The Secretary shall not grant any license or permit for any activity described in detail in an exploration plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act.*

"(3) *An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—*

"(A) *a schedule of anticipated exploration activities to be undertaken;*

"(B) *a description of equipment to be used for such activities;*

"(C) *the general location of each well to be drilled; and*

"(D) *such other information deemed pertinent by the Secretary.*

"(4) *The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.*

"(*d*) *The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.*

"(*e*)(*1*) *If a significant revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection* (*c*) *of this section.*

"(*2*) *All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.*

"(*f*)(*1*) *Exploration activities pursuant to any lease for which a drilling permit has been issued or for which an exploration plan has been approved, prior to ninety days after the date of enactment of this subsection, shall be considered in compliance with this section, except that the Secretary may, in accordance with section 5*(*a*)(*1*)(*B*) *of this Act, order a suspension or temporary prohibition of any exploration activities and require a revised exploration plan.*

"(*2*) *The Secretary may require the holder of a lease described in paragraph* (*1*) *of this subsection to supply a general statement in accordance with subsection* (*c*)(*4*) *of this section, or to submit other information.*

"(*3*) *Nothing in this subsection shall be construed to amend the terms of any permit or plan to which this subsection applies.*

"(*g*) *Any permit for geological explorations authorized by this section shall be issued only if the Secretary determines, in accordance with regulations issued by the Secretary, that—*

"(*1*) *the applicant for such permit is qualified;*

"(*2*) *the exploration will not interfere with or endanger operations under any lease issued or maintained pursuant to this Act; and*

"(*3*) *such exploration will not be unduly harmful to aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance.*

"(*h*) *The Secretary shall not issue a lease or permit for, or otherwise allow, exploration, development, or production activities within fifteen miles of the boundaries of the Point Reyes Wilderness as depicted on a map entitled 'Wilderness Plan, Point Reyes National Seashore', numbered 612–90100–B and dated September 1976, unless the State of California issues a lease or permit for, or otherwise allows, exploration, development, or production activities on lands beneath navigable waters* (*as such term is defined in section 2 of the Submerged Lands Act*) *of such State which are adjacent to such Wilderness.*".

ANNUAL REPORT

Sec. 207. (*a*) *Section 15 of the Outer Continental Shelf Lands Act* (*43 U.S.C. 1344*) *is amended to read as follows:*

"*Sec. 15. Annual Report by Secretary to Congress.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:*

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures dealing with supplies of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) *Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.*

"(2) *Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—*

"(A) *existing information concerning the geographical, geological, and ecological characteristics of such regions;*

"(B) *an equitable sharing of developmental benefits and environmental risks among the various regions;*

"(C) *the location of such regions with respect to, and the relative needs of, regional and national energy markets;*

"(D) *the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;*

"(E) *the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;*

"(F) *laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;*

"(G) *the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and*

"(H) *relevant environmental and predictive information for different areas of the outer Continental Shelf.*

"(3) *The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.*

"(4) *Leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government.*

"(b) *The leasing program shall include estimates of the appropriations and staff required to—*

"(1) *obtain resource information and any other information needed to prepare the leasing program required by this section;*

"(2) *analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;*

"(3) *conduct environmental studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and*

"(4) *supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration*

and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and from any other person.

"(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall submit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(3) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, and the Governors of affected States, and shall publish such proposed program in the Federal Register. Each Governor shall, upon request, submit a copy of the proposed leasing program to the executive of any local government affected by the proposed program.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General may, after consultation with the Federal Trade Commission, submit comments on the anticipated effects of such proposed program upon competition. Any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that

leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year. He may revise and reapprove such program, at any time, and such revision and reapproval, except in the case of a revision which is not significant, shall be in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455).

Such procedures shall be applicable to any significant revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged or proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged or nonproprietary information he requests to assist him in preparing the leasing program and may provide the Secretary with any privileged or proprietary information he requests to assist him in preparing the leasing program. Privileged or proprietary information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may

submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan. Prior to submitting recommendations to the Secretary, the executive of any affected local government in any affected State must forward his recommendations to the Governor of such State.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but need not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 20. ENVIRONMENTAL STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any oil and gas lease sale in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) of this subsection shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or announced by publication of a notice of proposed lease sale before such date of enactment, and not later than six months

prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to such date of enactment.

"(3) In addition to developing environmental information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) The Secretary shall consider available relevant environmental information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

"(e) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(f) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

"SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development, and production of the minerals of the outer Continental Shelf. The results of such study shall be submitted to the President who shall submit a plan to the Congress of his proposals to promote safety and health in the exploration, development, and production of the minerals of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies.

"(c) The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to unregulated hazardous working conditions related to activties on the outer Continental Shelf when he determines such regulations or standards are necessary. The Secretary of the Department in which the Coast Guard is operating may from time to time modify any regulations, interim or final, dealing with hazardous working conditions on the outer Continental Shelf.

"(d) Nothing in this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety.

"(e) The Secretary of Commerce, in cooperation with the Secretary of the Department in which the Coast Guard is operating, and the Director of the National Institutes of Occupational Safety and Health, shall conduct studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance. Such studies shall include, but need not be limited to, decompression and excursion table development and improvement and all aspects of diver physiological restraints and protective gear for exposure to hostile environments.

"(f)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) *The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.*

SEC. 22. ENFORCEMENT.—(a) The Secretary, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of the Army shall enforce safety and environmental regulations promulgated pursuant to this Act. Each such Federal department may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of other Federal departments and agencies for the enforcement of their respective regulations.

"(b) *It shall be the duty of any holder of a lease or permit under this Act to—*

"(1) *maintain all places of employment within the lease area or within the area covered by such permit in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;*

"(2) *maintain all operations within such lease area or within the area covered by such permit in compliance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf; and*

"(3) *allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.*

"(c) *The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—*

"(1) *scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and*

"(2) *periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.*

"(d) (1) *The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil during a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.*

"(2) *The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public*

report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

"(e) The Secretary, or, in the case of occupational safety and health, the Secretary of the Department in which the Coast Guard is operating, may review any allegation from any person of the existence of a violation of a safety regulation issued under this Act.

"(f) In any investigation conducted pursuant to this section, the Secretary or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in the district courts of the United States. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

"(g) The Secretary shall, after consultation with the Secretary of the Department in which the Coast Guard is operating, include in his annual report to the Congress required by section 15 of this Act the number of violations of safety regulations reported or alleged, any investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations, and the results of the diving studies conducted under section 21 (c) of this Act.

"SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act.

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; or

"(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the al-

leged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Attorney General, upon the request of the Secretary or any other appropriate Federal official, may intervene as a matter of right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b)(1) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (A) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the minerals, of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such minerals, or (B) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(2) Any resident of the United States who is injured in any manner through the failure of any operator to comply with any rule, regulation, order, or permit issued pursuant to this Act may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district having jurisdiction under paragraph (1) of this subsection.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within

sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a) of this section.

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"(d) Except as to causes of action which the court considers of greater importance, any action under this section shall take precedence on the docket over all other causes of action and shall be set for hearing at the earliest practical date and expedited in every way.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement,

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representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this Act shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this Act shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a) (1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in any area of the outer Continental Shelf, other than the Gulf of Mexico, or issued or maintained prior to such date of enactment in any area of the outer Continental Shelf, other than the Gulf of Mexico, with respect to which no oil or gas has been discovered in paying quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development and production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any privileged or proprietary information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and, upon request, to the executive of any affected local government, and (B) make such plan and statement available to any appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any region of the outer Continental Shelf, other than the Gulf of Mexico, unless such lease requires

that development and production activities be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d) The Secretary shall not grant any license or permit for any activity described in detail in a plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act.

"(e)(1) At least once the Secretary shall declare the approval of a development and production plan in any area or region (as defined by the Secretary) of the outer Continental Shelf, other than the Gulf of Mexico, to be a major Federal action.

"(2) The Secretary may require lessees of tracts for which development and production plans have not been approved, to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(f) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, and upon request, to the executive of any local government, and shall make such draft available to any appropriate interstate regional entity and the public.

"(g) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State and the executive of any affected local government shall have sixty days from the date of receipt of the plan from the Secretary to submit comments and recommendations. Prior to submitting recommendations to

the Secretary, the executive of any affected local government must forward his recommendations to the Governor of his State. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(h)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (g) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (e) of this section, or sixty days after the period provided for comment under subsection (g) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act. Any modification required by the Secretary which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) must receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act;

"(B) if any of the activities described in detail in the plan for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) do not receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased

or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of such plan in accordance with this subsection.

"(C) Upon expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease and the lessee shall be entitled to receive compensation in accordance with section 5(a)(2)(C) of this Act. The Secretary may, at any time within the five-year period described in subparagraph (B) of this paragraph, require the lessee to submit a development and production plan for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately initiate procedures to cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(i) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee,

or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the human, marine, and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (f) of this section.

"(j) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may be canceled in accordance with sections 5 (c) and (d). Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(k) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Energy Regulatory Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Energy Regulatory Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to such agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Energy Regulatory Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Energy Regulatory Commission, shall promulgate rules to implement this subsection, but the Federal Energy Regulatory Commission shall retain sole authority with respect to rules and procedures applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"(l) The Secretary may require the provisions of this section to apply to an oil and gas lease issued or maintained under this Act, which is located in that area of the Gulf of Mexico which is adjacent to the State of Florida, as determined pursuant to section 4(a)(2) of this Act.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be

provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data and information is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data and information;

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information;

"(iii) by a permittee, in the form and manner of processing which is utilized by such permittee in the normal conduct of his business, the Secretary shall pay such permittee the reasonable cost of reproducing such data and information for the Secretary and shall pay at the lowest rate available to any purchaser for processing such data and information the costs attributable to such processing; and

"(iv) by a permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay such permittee the reasonable cost of processing and reproducing such data and information for the Secretary,

pursuant to such regulations as he may prescribe.

"(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Data and information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States, and upon request, to any affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the

release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) an index, and upon request copies of, all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act, but no information transmitted by the Secretary under this subsection shall identify any particular tract with the name or names of any particular party so as not to compromise the competitive position of any party or parties participating in the nominations;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this section, unless the Secretary determines that transmittal of such data prepared pursuant to such subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section, and to hold the United States harmless from any violations of the regulations prescribed pursuant to subsection (c) that the State or its employees may commit.

"(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations pre-

scribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

"(g) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease issued or maintained in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the well head of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Secretary of Energy, for disposal within the Federal Government.

"(b)(1) The Secretary, except as provided in this subsection, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value, any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Secretary of Energy, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or re-

served to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any allocation or lottery sale to assure such access and shall publish notice of such allocation or sale, and the terms thereof, at least thirty days in advance. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) The Secretary may only sell or otherwise dispose of oil described in paragraph (1) of this subsection in accordance with any provision of law, or regulations issued in accordance with such provisions, which provide for the Secretary of Energy to allocate, transfer, exchange, or sell oil in amounts or at prices determined by such provision of law or regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Secretary of Energy, the Federal Energy Regulatory Commission determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this section, the Secretary of the Interior may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocation or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to selling or allocating any gas pursuant to this subsection, the Secretary shall consult with the Federal Energy Regulatory Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act, any other Act, regulations governing natural gas pricing, or any rule or order issued under any such Act or any such regulations; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas; and

"(2) the term 'small refiner' has the meaning given such term by Small Business Administration Standards 128.3–8 (d) and (g), as in effect on the date of enactment of this section or as thereafter revised or amended.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf as provided by section 12(b) of this Act.

"SEC. 28. LIMITATION ON EXPORT.—(a) Except as provided in subsection (d) of this section, any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, or which is exchanged or exported pursuant to an existing international agreement.

"SEC. 29. RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule shall—

"(1) within two years after his employment with the Department has ceased—

"(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

"(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

"(C) knowingly aid or assist in representing any other person (except the United States) in any formal or informal appearance before,

any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order, lease, permit, rulemaking, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

"(2) within one year after his employment with the Department has ceased—

"(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before; or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to,

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest.

"SEC. 30. DOCUMENTATION, REGISTRY, AND MANNING REQUIREMENTS.—(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall issue regulations which require that any vessel, rig, platform, or other vehicle or structure—

"(1) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this Act and which is built or rebuilt at any time after such one-year period, when required to be documented by the laws of the United States, be documented under the laws of the United States;

"(2) which is used for activities pursuant to this Act, comply, except as provided in subsection (b), with such minimum standards of design, construction, alteration, and repair as the Secretary or the Secretary of the Department in which the Coast Guard is operating establishes; and

"(3) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this Act, be manned or crewed, except as provided in subsection (c), by citizens of the United States or aliens lawfully admitted to the United States for permanent residence.

"(b) The regulations issued under subsection (a)(2) of this section shall not apply to any vessel, rig, platform, or other vehicle or structure built prior to the date of enactment of this section, until such time after such date as such vehicle or structure is rebuilt.

"(c) The regulations issued under subsection (a)(3) of this section shall not apply—

"(1) to any vessel, rig, platform, or other vehicle or structure if—

"(A) specific contractual provisions or national registry manning requirements in effect on the date of enactment of this section provide to the contrary;

"(B) there are not a sufficient number of citizens of the United States, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work; or

"(C) the President makes a specific finding, with respect to the particular vessel, rig, platform, or other vehicle or structure, that application would not be consistent with the national interest; and

"(2) to any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil and gas in its offshore areas.".

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

SEC. 301. For the purposes of this title, the term—

(1) "Secretary" means the Secretary of Transportation;

(2) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302 of this title;

(3) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

(4) "incident" means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes or poses an imminent threat of oil pollution;

(5) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term "outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))), or which is operating in the waters above submerged lands seaward from the coastline of a State (as the term "submerged lands" is described in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)(2))), and which is transporting oil directly from an offshore facility;

(6) "public vessel" means a vessel which—

(A) is owned or chartered by demise, and operated by (i) the United States, (ii) a State or political subdivision thereof, or (iii) a foreign government; and

(B) is not engaged in commercial service;

(7) "facility" means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

(8) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term "outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(9) "oil pollution" means—

(A) the presence of oil either in an unlawful quantity or which has been discharged at an unlawful rate (i) in or on the waters above submerged lands seaward from the coastline of a State (as the term "submerged lands" is described in section 2(a)(2) of the Submerged Lands Act (43 U.S.C. 1301(a)(2))), or on the adjacent shoreline of such a State, or (ii) on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(B) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(i) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); or

(ii) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(C) the presence of oil in or on the territorial sea, navigable or internal waters, or adjacent shoreline of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

(10) "United States claimant" means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim under this title;

(11) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim under this title;

(12) "United States" includes and "State" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(13) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(14) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from such incident;

(15) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include cleanup costs;

(16) "person in charge" means the individual immediately responsible for the operation of a vessel or offshore facility;

(17) "claim" means a demand in writing for a sum certain;

(18) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(19) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license, or other form of agreement, or with respect to any offshore facility abandoned without prior approval of the Secretary of the Interior, the person who owned such offshore facility immediately prior to such abandonment, except that such term does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interest in the vessel or offshore facility;

(20) "operator" means—

(A) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(B) in the case of an offshore facility, any person, except the owner, who is responsible for the operation of such facility by agreement with the owner;

(21) "property" means littoral, riparian, or marine property;

(22) "removal costs" means—

(A) costs incurred under subsection (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act, and section 5 of the Intervention on the High Seas Act; and

(B) cleanup costs, other than the costs described in subparagraph (A);

(23) "guarantor" means the person. other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

(24) "gross ton" means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

(25) "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

FUND ESTABLISHMENT, ADMINISTRATION, AND FINANCING

SEC. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund in an amount not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) of this section to be paid into the Fund. The Fund shall be administered by the Secretary

and the Secretary of the Treasury as specified in this title. The Fund may sue and be sued in its own name.

(b) The Fund shall be composed of—

(1) all fees collected pursuant to subsection (d) of this section; and

(2) all other moneys recovered or collected on behalf of the Fund under section 308 or any other provision of this title.

(c) The Fund shall be immediately available for—

(1) removal costs described in section 301(22);

(2) the processing and settlement of claims under section 307 of this title (including the costs of assessing injury to, or destruction of, natural resources); and

(3) subject to such amounts as are provided in appropriation Acts, all administrative and personnel costs of the Federal Government incident to the administration of this title, including, but not limited to, the claims settlement activities and adjudicatory and judicial proceedings, whether or not such costs are recoverable under section 308 of this title.

The Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the Fund for such purposes.

(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable regulations relating to the collection of the fees authorized by paragraph (1) of this subsection and, from time to time, the modification thereof. Any modification shall become effective on the date specified in the regulation making such modification, but no earlier than the ninetieth day following the date such regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the Fund is maintained at a level of not less than $100,000,000 and not more than $200,000,000. No regulation that sets or modifies fees, whether or not in effect, may be stayed by any court pending completion of judicial review of such regulation.

(3)(A) Any person who fails to collect or pay any fee as required by any regulation promulgated under paragraph (2) of this subsection shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fee required to be collected or paid and the interest on such fee at the rate such fee would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2) of this section. Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the Fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such records and documents for the purpose of audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund, above the level determined under paragraph (1) of this subsection, in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be deposited in and credited to the Fund.

(f) If at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or other obligations shall be made by the Secretary from moneys in the Fund. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of such notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

DAMAGES AND CLAIMANTS

SEC. 303. (a) Claims for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

(1) removal costs; and

(2) damages, including—

(A) injury to, or destruction of, real or personal property;

(B) loss of use of real or personal property;

(C) injury to, or destruction of, natural resources;

(D) loss of use of natural resources;

(E) loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources; and

(F) loss of tax revenue for a period of one year due to injury to real or personal property.

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(b) A claim authorized by subsection (a) of this section may be asserted—

(1) under paragraph (1), by any claimant, except that the owner or operator of a vessel or offshore facility involved in an incident may assert such a claim only if he can show—

(A) that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) of this title; or

(B) if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b), except that if he is not entitled to such a defense to liability but is entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

(2) under paragraphs (2)(A), (B), and (D), by any United States claimant if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

(3) under paragraph (2)(C), by the President, as trustee for natural resources over which the Federal Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State, and sums recovered under paragraph (2)(C) shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources;

(4) under paragraph (2)(E), by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

(5) under paragraph (2)(F), by the Federal Government and any State or political subdivision thereof;

(6) under paragraphs (2) (A) through (E), by a foreign claimant to the same extent that a United States claimant may assert a claim if—

(A) the oil pollution occurred in or on the territorial sea, navigable waters or internal waters, or adjacent shoreline of a foreign country of which the claimant is a resident;

(B) the claimant is not otherwise compensated for his loss;

(C) the oil was discharged from an offshore facility or from a vessel in connection with activities conducted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants;

(7) under paragraph (1) or (2), by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claim-

ants would be more adequately represented as a class in asserting their claims.

(c) If the Attorney General fails to take action under paragraph (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 of this title, any member of a group described in such paragraph may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

LIABILITY

SEC. 304. (a) Subject to the provisions of subsections (b) and (c) of this section, the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(22) of this title, shall be jointly, severally, and strictly liable for all loss for which a claim may be asserted under section 303 of this title.

(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator, or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government, the total of the liability under subsection (a) of this section incurred by, or on behalf of, the owner or operator shall be—

(1) in the case of a vessel, limited to $250,000 or $300 per gross ton, whichever is greater, except when the owner or operator of a vessel fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities; or

(2) in the case of an offshore facility, the total of removal and cleanup costs, and an amount limited to $35,000,000 for all damages.

(c) There shall be no liability under subsection (a) of this section—

(1) if the incident is caused solely by any act of war, hostilities, civil war, or insurrection, or by an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistable character, the effect of which could not have been prevented or avoided by the exercise of due care or foresight; or

(2) if the incident is caused solely by the negligent or intentional act of the damaged party or any third party (including any government entity).

(d) Notwithstanding the limitations, exceptions, or defenses of subsection (b) or (c) of this section, all costs of removal incurred by the Federal Government or any State or local official or agency in connection with a discharge of oil from any offshore facility or vessel shall be borne by the owner and operator of the offshore facility or vessel from which the discharge occurred.

(e) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b) of this section.

(f)(1) Subject to the provisions of paragraph (2) of this subsection, the Fund shall be liable, without any limitation, for all losses for

which a claim may be asserted under section 303 of this title, to the extent that such losses are not otherwise compensated.

(2) Except for the removal costs specified in section 301(22), there shall be no liability under paragraph (1) of this subsection—

(A) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(B) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(g)(1) In addition to the losses for which claims may be asserted under section 303 of this title, and without regard to the limitation of liability provided in subsection (b) of this section, the owner, operator, or guarantor of an offshore facility or vessel shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim is presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which such owner, operator, or guarantor offers the claimant an amount equal to or greater than the amount finally paid in satisfaction of the claim to the date upon which the claimant accepts such amount, inclusive. However, if such owner, operator, or guarantor offers the claimant, within sixty days of the date upon which the claim is presented, or of the date upon which advertising is commenced pursuant to section 306 of this title, whichever is later, an amount equal to or greater than the amount finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer is accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) of this subsection shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(h) Nothing in this title shall bar a cause of action that an owner or operator, subject to liability under subsection (a) of this section, or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(i) To the extent that they are in conflict or otherwise inconsistent with any other provision of law relating to liability or the limitation thereof, the provisions of this section shall supersede such other provision of law, including section 4283(a) of the Revised Statutes (46 U.S.C. 183(a)).

FINANCIAL RESPONSIBILITY

SEC. 305. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo) which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title. Financial responsi-

bility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In any case where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary, in accordance with regulations promulgated by him, shall—

(A) deny entry to any port or place in the United States or to the navigable waters to; and

(B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States,

any vessel subject to this subsection which, upon request, does not produce certification furnished by the President that such vessel is in compliance with the financial responsibility provisions of paragraph (1) of this subsection.

(3) The Secretary, in accordance with regulations promulgated by him, shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act, and such facilities and vessels shall, upon request, show certification of financial responsibility.

(b) The owner or operator of an offshore facility which (1) is used for drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such facility would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less.

(c) Any claim authorized by section 303(a) may be asserted directly against any guarantor providing evidence of financial responsibility for any owner or operator of an offshore facility or vessel as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to such owner or operator under this title. Such guarantor shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of such owner or operator, but shall not be entitled to invoke any other defense which such guarantor might be entitled to invoke in proceedings brought by such owner or operator against such guarantor.

(d) The President shall conduct a study to determine—

(1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, onshore facilities, and offshore facilities; and

(2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, coinsurance provisions, and exclusions.

The President shall submit the results of his study, together with his recommendation, within one year after the date of enactment of this title, and shall submit an interim report on his study within three months after such date of enactment.

NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

SEC. 306. (a) The person in charge of a vessel or offshore facility which is involved in an incident shall immediately notify the Secretary of the incident as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

(b) (1) When the Secretary receives information pursuant to subsection (a) of this section or otherwise of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source and the guarantor of such designation.

(2) When a source designated under paragraph (1) of this subsection is a vessel or offshore facility and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to such owner, operator, or guarantor.

(c) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b) of this section;

(2) the source of the discharge was a public vessel; or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of such subsection (b),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Fund.

(d) Advertisement under subsection (b) of this section shall commence no later than fifteen days after the date of the designation made under such subsection and shall continue for a period of no less than thirty days.

CLAIMS SETTLEMENT

SEC. 307. (a) Except as provided in subsection (b) of this section, all claims shall be presented to the owner, operator, or guarantor.

(b) All claims shall be presented to the Fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 306(c) of this title; or

(2) where the owner or operator may recover under the provisions of section 303(b)(1) of this title.

(c) In the case of a claim presented in accordance with subsection (a) of this section, and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason; or

(2) the claim is not settled by any person by payment to the claimant within sixty days from the date upon which (A) the claim is presented, or (B) advertising is commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the Fund, that election to be irrevocable and exclusive.

(d) In the case of a claim presented in accordance with subsection (a) of this section, where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304(b) of this title or because the owner, operator, and guarantor to whom the claim is presented are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the Fund.

(e) In the case of a claim which is presented to any person, pursuant to subsection (a) of this section, and which is being presented to the Fund, pursuant to subsection (c) or (d) of this section, such person, at the request of the claimant, shall transmit the claim and supporting documents to the Fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(f) In the case of a claim presented to the Fund, pursuant to subsection (b), (c), or (d) of this section, and in which the Fund—

(1) denies all liability for the claim, for any reason; or

(2) does not settle the claim by payment to the claimant within sixty days after the date upon which (A) the claim is presented to the Fund, or (B) advertising is commenced pursuant to section 306(c) of this title, whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the Fund pursuant to such subsection (b) may elect to commence an action in court against the Fund in lieu of submission of the dispute to the Secretary for decision, that election to be irrevocable and exclusive.

(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the Fund.

(2) Except as provided in paragraph (3) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the Fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved

by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted by or on behalf of such State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the Fund.

(h) Notwithstanding subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period of not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f) of this section. At least one member of each panel shall be qualified to conduct adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the Fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, shall apply to panel members appointed from private life.

(i)(1) Upon receipt of a request for a decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h) of this section.

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit, of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage com-

plained of occurred within two or more districts, in any of the affected districts, or if the damage occurred outside any district, in the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with regulations which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the Fund.

(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

(j)(1) In any action brought pursuant to this title against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the Fund at the same time such pleadings are served upon the opposing parties.

(2) The Fund may intervene in any action described in paragraph (1) of this subsection as a matter of right.

(3) In any action described in paragraph (1) of this subsection to which the Fund is a party, if the owner, operator, or guarantor admits liability under this title, the Fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the Fund receives from either the plaintiff or the defendant notice of an action described in paragraph (1) of this subsection, the Fund shall be bound by any judgment entered therein, whether or not the Fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of an action described in paragraph (1) of this subsection to the Fund, the limitation of liability otherwise permitted by section 304(b) of this title shall not be available to the defendant, and the plaintiff shall not recover from the Fund any sums not paid by the defendant.

(k) In any action brought against the Fund under this title, the plaintiff may join any owner, operator, or guarantor, and the Fund may join any person who is or may be liable to the Fund under any provision of this title.

(l) No claim may be presented, nor may an action be commenced for economic losses recoverable under this title, unless such claim is presented to, or such action is commenced against, the owner, operator, or guarantor, or the Fund, as to their respective liabilities, within three years after the date of discovery of the economic loss for which a claim may be asserted under section 303(a) of this title, or within six years of the date of the incident which resulted in such loss, whichever is earlier.

SUBROGATION

SEC. 308. (a) Any person or governmental entity, including the Fund, who pays compensation to any claimant for an economic loss, compensable under section 303 of this title, shall be subrogated to all rights, claims, and causes of action which such claimant has under this title.

(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the Fund, for the compensation paid by the Fund to any claimant pursuant to this title. Such an action may

be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, pursuant to any law, to the compensated claimant or to the Fund, for economic losses for which the compensation was paid.

(c) In any claim or action by the Fund against any owner, operator, or guarantor, pursuant to the provisions of subsection (a) or (b), the Fund shall recover—

(1) for a claim presented to the Fund (where there has been a denial of source designation) pursuant to section 307(b)(1) of this title, or (where there has been a denial of liability) pursuant to section 307(c)(1) of this title—

(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b) of this title, the amount the Fund has paid to the claimant, without reduction;

(B) interest on such amount, at the rate calculated in accordance with section 304(g)(2) of this title, from the date upon which the claim is presented by the claimant to the defendant to the date upon which the Fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the Fund offers to the claimant the amount finally paid by the Fund to the claimant in satisfaction of the claim against the Fund to the date upon which the claimant accepts that offer, inclusive; and

(C) all costs incurred by the Fund by reason of the claim, both of the claimant against the Fund and the Fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

(2) for a claim presented to the Fund pursuant to section 307(c)(2) of this title—

(A) in which the amount the Fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the Fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 304(g)(2) of this title, for the period specified in paragraph (1)(B) of this subsection; and

(iii) all costs incurred by the Fund by reason of the claim of the Fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the Fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) the amount which the Fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 304(g)(2) of this title, from the date upon which the claim is presented by the claimant to the defendant to the date upon which the defendant offered to the claim-

ant the largest amount referred to in this subparagraph, except that if the defendant tenders the offer of the largest amount referred to in this subparagraph within sixty days after the date upon which the claim of the claimant is either presented to the defendant or advertising is commenced pursuant to section 306 of this title, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the Fund against the defendant is presented to the defendant to the date upon which the Fund is paid, inclusive, less the period, if any, from the date upon which the defendant offers to the Fund the amount finally paid to the Fund in satisfaction of the claim of the Fund to the date upon which the Fund accepts that offer, inclusive.

(d) The Fund shall pay over to the claimant that portion of any interest the Fund recovers, pursuant to subsection (c) (1) and (2) (A), for the period from the date upon which the claim of the claimant is presented to the defendant to the date upon which the claimant is paid by the Fund, inclusive, less the period from the date upon which the Fund offers to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant accepts such offer, inclusive.

(e) The Fund is entitled to recover for all interest and costs specified in subsection (c) of this section without regard to any limitation of liability to which the defendant may otherwise be entitled under this title.

JURISDICTION AND VENUE

SEC. 309. (a) The United States district courts shall have original and exclusive jurisdiction of all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

RELATIONSHIP TO OTHER LAW

SEC. 310. (a) Any person who receives compensation for damages or removal costs pursuant to this title shall be precluded from recovering compensation for the same damages or removal costs pursuant to any other State or Federal law. Any person who receives compensation for damages or cleanup costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or removal costs under this title.

(b) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu of any

other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

(c) Except as otherwise provided in this title, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or removal costs within the jurisdiction of such State.

PROHIBITION

SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

PENALTIES

SEC. 312. (a)(1) Any person who fails to comply with the requirements of section 305 of this title, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not to exceed $10,000.

(2) The civil penalty described in paragraph (1) of this subsection may be assessed and compromised by the President or his designee, in connection with section 305(a)(1) of this title, and by the Secretary, in connection with section 305(a)(3) and section 305(b) of this title. No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(3) At the request of the official assessing a penalty under this subsection, the Attorney General may bring an action in the name of the Fund to collect the penalty assessed.

(b) Any person in charge who is subject to the jurisdiction of the United States and who fails to give the notification required by section 306(a) of this title shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both.

AUTHORIZATION OF APPROPRIATIONS

SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

(b) There are also authorized to be appropriated to the Fund, from time to time, such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issuance of notes or other obligations pursuant to section 302(f) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes or other obligations pursuant to section 302(f) of this title, to charge and collect fees pursuant to section 302(d) of this title, or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

ANNUAL REPORT

SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the Fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the Fund and the administration of the liability provisions of this title.

EFFECTIVE DATES

SEC. 315. (a) This section, subsection (e) of section 304, subsection (d) of section 305, and all provisions of this title authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of this title.

(b) All other provisions of this title, and rules and regulations promulgated pursuant to such provisions, shall be effective on the one hundred and eightieth day after the date of enactment of this title.

TITLE IV—FISHERMEN'S CONTINGENCY FUND

DEFINITIONS

SEC. 401. As used in this title, the term—

(1) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least 75 per centum of the interest of therein owned by citizens of the United States. Seventy-five per centum of the interest in the corporation shall not be deemed to be owned by citizens of the United States—

(A) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States;

(B) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States;

(C) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(D) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(2) "commercial fisherman" means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel;

(3) "commercial fishing vessel" means any vessel, boat, ship, or other craft which is (A) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (B) used for, equipped to be used for, or of a type

which is normally used for commercial purposes for the catching, taking, or harvesting of fish or the aiding or assisting at sea of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing;

(4) "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species;

(5) "fishing gear" means (A) any commercial fishing vessel, and (B) any equipment of such vessel, whether or not attached to such a vessel;

(6) "Fund" means the Fishermen's Contingency Fund established under section 402 of this title; and

(7) "Secretary" means the Secretary of Commerce or the designee of such Secretary.

ESTABLISHMENT OF THE FISHERMEN'S CONTINGENCY FUND; FEE COLLECTION

SEC. 402. (a) There is hereby established in the Treasury of the United States a Fishermen's Contingency Fund. The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of making payments pursuant to this section. The total amount in the Fund shall at no time exceed $1,000,000. Amounts paid pursuant to the provisions of subsections (c) and (d) of this section shall be deposited in the Fund. The Fund may sue or be sued in its own name.

(b) The Secretary is authorized to establish and maintain an area account within the Fund for any area of the Outer Continental Shelf for purposes of providing reasonable compensation for damages to, or loss of, fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area.

(c) Upon establishment of an area account for any area of the Outer Continental Shelf pursuant to subsection (b) of this section, any holder of a lease issued or maintained under the Outer Continental Shelf Lands Act for any tract in such area and any holder of an exploration permit, or of an easement or right-of-way for the construction of a pipeline in such area, shall pay an amount specified by the Secretary for the purpose of the establishment and maintenance of an area account for such area. The Secretary of the Interior shall collect such amount and deposit it to the credit of such area account within the Fund. In any calendar year, no holder of a lease, permit, easement, or right-of-way shall be required to pay an amount in excess of $5,000 per lease, permit, easement, or right-of-way.

(d) Subject to subsection (a) of this section, each area account established pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by assessments of holders of leases, permits, easements, and rights-of-way in such area.

(e) Amounts in each such area account shall be available for disbursement and shall be disbursed, subject to such amounts as are provided in appropriations Acts, for only the following purposes:

(1) Administrative and personnel expenses of such area account and administrative and personnel expenses of the Fund which re-

late to such area account, except that amounts disbursed for such expenses in any fiscal year shall not exceed 15 per centum of the amounts deposited in such revolving account in such fiscal year.

(2) The payment of any claim in accordance with procedures established under this section for damages suffered as a result of activities in the area for which such area account was established.

(3) Reasonable attorney's fees awarded pursuant to section 405 (e) of this title.

DUTIES AND POWERS

SEC. 403. (a) In carrying out the provisions of this title, the Secretary shall—

(1) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this title, including a time limitation on the filing of such claims; and

(2) identify and classify all potential hazards to commercial fishing caused by Outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface.

(b) The Secretary of the Interior shall establish regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use.

(c)(1) Payments shall be disbursed by the Secretary from the appropriate area account to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to damages to, or loss of, fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area, whether or not such damage occurred in such area.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, no payment may be made by the Secretary from any area account established under this title—

(A) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party;

(B) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim;

(C) if the damage set forth in the claim was sustained prior to the date of enactment of this title;

(D) in the case of a claim for damage to, or loss of, fishing gear, in an amount in excess of the replacement value of the fishing gear with respect to which the claim is filed;

(E) in the case of a claim for loss of profits (i) for any period in excess of 6 months, and (ii) unless such claim is supported by records with respect to the claimant's profits during the previous 12-month period; and

(F) for any portion of the damages claimed with respect to which the claimant has or will receive compensation from insurance.

BURDEN OF PROOF

SEC. 404. With respect to any claim for damages filed pursuant to this title, there shall be a presumption that such claim is valid if the claimant establishes that—

(1) the commercial fishing vessel was being used for fishing and was located in an area affected by Outer Continental Shelf activities;

(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within five days after the date on which such damages were discovered;

(3) there was no record on nautical charts or the Notice to Mariners on the date such damages were sustained that such material, equipment, tool, container, or other item existed in such area; and

(4) there was no proper surface marker or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

CLAIM PROCEDURES AND SUBROGATION OF RIGHTS

SEC. 405. (a) Any commercial fisherman suffering damages compensable under this title may file a claim for compensation with the Secretary, except that no such claim may be filed more than 60 days after the date of discovery of the damages with respect to which such claim is made.

(b) Upon receipt of any claim under this section, the Secretary shall—

(1) transmit a copy of the claim to the Secretary of the Interior; and

(2) refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code.

(c) The Secretary of the Interior shall make reasonable efforts to notify all persons known to have engaged in activities associated with Outer Continental Shelf energy activity in the vicinity. Each such person shall promptly notify the Secretary and the Secretary of the Interior as to whether he admits or denies responsibility for the damages claimed. Any such person, including lessees or permittees or their contractors or subcontractors, may submit evidence at any hearing conducted with respect to such claim.

(d) The hearing examiner shall, within 120 days after such matter is referred to him by the Secretary, adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(e) If the decision of the hearing examiner is in favor of the commercial fisherman filing the claim, such hearing examiner shall include, as part of the amount certified to the Secretary under subsection (h)(1) of this section, reasonable attorneys' fees incurred by such commercial fisherman in pursuing such claim.

(f)(1) For purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance or testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

(2) In any hearing conducted pursuant to this section with respect to a claim for damages resulting from activities on any area of the Outer Continental Shelf, the hearing examiner shall consider evidence of obstructions in such area which have been identified pursuant to the survey conducted under section 407 of this title.

(g) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, of such matter occurred outside of any district, in the nearest district.

(h) (1) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

(2) Upon payment of a claim by the Secretary pursuant to this subsection, the Secretary shall acquire by subrogation all rights of the claimant against any person found to be responsible for the damages with respect to which such claim was made.

(3) Any person who denies responsibility for damages with respect to which a claim is made and who is subsequently found to be responsible for such damages, and any commercial fisherman who files a claim for damages and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings under this section with respect to such claim.

(i) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than 60 days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit.

ANNUAL REPORT

SEC. 406. (a) The Secretary shall submit an annual report to the Congress which shall set forth—

(1) a description of the types of damages set forth in claims filed with the Secretary during the previous year for compensation from the Fund;

(2) the amount of compensation awarded to claimants during the previous year; and

(3) the number of cases during the previous year in which damages were determined to be the responsibility of a lessee or permittee conducting operations on the Outer Continental Shelf, or the contractor or subcontractor of such a lessee or permittee.

(b) In addition to the material described in subsection (a) of this section, the Secretary shall, after consultation with the Secretary of the Interior, include in the first annual report an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the Outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear by (1) imposing fines or penalties on lessees or permittees, or contractors or subcontractors of lessees or permittees, who are responsible for such obstructions, or (2) requiring

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the bonding of such lessees or permittees or such contractors or subcontractors.

SURVEY OF OBSTRUCTIONS ON THE OUTER CONTINENTAL SHELF

SEC. 407. (a) The Secretary, in cooperation with the Secretary of the Interior, shall conduct a two-year survey of obstructions on the Outer Continental Shelf. Such survey shall be conducted for purposes of identifying (1) natural obstructions on the Outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear, and (2) in addition, in the case of areas in which oil and gas exploration, development, or production is taking place, manmade obstructions relating to such activities which pose potential hazards to commercial fishing or fishing gear.

(b) The Secretary shall, on the basis of the survey conducted under this section, and regulations promulgated under section 403(a) of this title, develop charts for commercial fishermen identifying obstructions on the Outer Continental Shelf.

(c) During the first six months of the survey conducted under this section, the Secretary shall concentrate on areas of the Outer Continental Shelf where oil and gas production has commenced or is expected to commence prior to the expiration of the two-year period of such survey.

TITLE V—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

COASTAL ENERGY IMPACT PROGRAM

SEC. 501. (a) Paragraph (2) of section 308(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)) is amended—

(1) by striking out "The amounts granted" and inserting in lieu thereof "Subject to paragraph (3), the amounts payable";

(2) by striking out "(A), (B), (C), and (D)" and inserting in lieu thereof "(A), (B), and (C)";

(3) in subparagraph (A), by striking out "one-third" and inserting in lieu thereof "one-half";

(4) in subparagraph (B), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(5) in subparagraph (C), by striking out "one-sixth" and inserting in lieu thereof "one-quarter"; and

(6) by striking out subparagraph (D).

(b) Such section 308(b) is amended—

(1) by renumbering paragraphs (3) through (5), and any references thereto, as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A)(i) After making the calculations required under paragraph (2) for any fiscal year, the Secretary shall—

"(I) with respect to any coastal state which, based on such calculations, would receive an amount which is less than 2 per centum of the amount appropriated for such fiscal year, increase the amount payable to such coastal state to 2 per centum of such appropriated amount; and

"(II) with respect to any coastal state which, in such fiscal year, would not receive a grant under paragraph (2), make a grant to such coastal state in an amount equal to 2 per centum of the total amount appropriated for making grants to all states under paragraph (2) in such fiscal year if any other coastal state in the same region will receive a grant under such paragraph in such fiscal year, except that a coastal state shall not receive a grant under this subclause unless the Secretary determines that it is being or will be impacted by outer Continental Shelf energy activity and that it will be able to expend or commit the proceeds of such grant in accordance with the purposes set forth in paragraph (5).

"(ii) For purposes of this subparagraph—

"(I) the states of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia, the Commonwealth of Puerto Rico, and the Virgin Islands (the Atlantic coastal states) shall constitute one 'region';

"(II) the states of Alabama, Florida, Louisiana, Mississippi, and Texas (the Gulf coastal states) shall constitute one 'region';

"(III) the states of California, Hawaii, Oregon, and Washington (the Pacific coastal states) shall constitute one 'region'; and

"(IV) the state of Alaska shall constitute one 'region'.

"(B) If, after the calculations required under subparagraph (A), the total amount of funds appropriated for making grants to coastal states in any fiscal year pursuant to this subsection is less than the total amount of grants payable to all coastal states in such fiscal year, there shall be deducted from the amount payable to each coastal state which will receive more than 2 per centum of the amount of funds so appropriated an amount equal to the product of—

"(i) the amount by which the total amount of grants payable to all coastal states in such fiscal year exceeds the total amount of funds appropriated for making such grants; multiplied by

"(ii) a fraction, the numerator of which is the amount of grants payable to such coastal state in such fiscal year reduced by an amount equal to 2 per centum of the total amount appropriated for such fiscal year and the denominator of which is the total amount of grants payable to coastal states which, in such fiscal year, will receive more than 2 per centum of the amount of funds so appropriated, reduced by an amount equal to the product of 2 per centum of the total amount appropriated for such fiscal year multiplied by the number of such coastal states.

"(C)(i) If, after the calculations required under subparagraph (B) for any fiscal year, any coastal state would receive an amount which is greater than 37½ per centum of the amount appropriated for such fiscal year, the Secretary shall reduce the amount payable to such coastal state to 37½ per centum of such appropriated amount.

"(ii) Any amount not payable to a coastal state in a fiscal year due to a reduction under clause (i) shall be payable proportionately to all coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year, except that in no event shall any coastal state receive more than 37½ per centum of such appropriated amount.

"(iii) For purposes of this subparagraph, the term 'payable proportionately' means payment in any fiscal year in accordance with the provisions of paragraph (2), except that in making calculations under such paragraph the Secretary shall only include those coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year.".

(c)(1) Paragraph (5)(B)(i) of such section 308(b) (as renumbered by subsection (b) of this section) is amended to read as follows:

"(i) necessary to provide new or improved public facilities and public services which are required as a result of outer Continental Shelf energy activity;".

(2) Paragraph (5)(B) of such section 308(b) (as so renumbered) is amended by adding at the end thereof the following new sentence:

"The Secretary may, pursuant to criteria promulgated by rule, describe geographic areas in which public facilities and public services referred to in clause (i) shall be presumed to be required as a result of outer Continental Shelf energy activity for purposes of disbursing the proceeds of grants under this subsection.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 502. Paragraph (3) of section 318(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(a)(3)) is amended to read as follows:

"(3) such sums, not to exceed $50,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed $130,000,000 per fiscal year for each of the fiscal years occurring during the period beginning on October 1, 1978, and ending September 30, 1988, as may be necessary for grants under section 308(b);".

OUTER CONTINENTAL SHELF GRANTS

SEC. 503. (a) Section 308(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall make grants under this paragraph to any coastal state which the Secretary finds is likely to be affected by outer Continental Shelf energy activities. Such grants shall be used by such state to carry out its responsibilities under the Outer Continental Shelf Lands Act. The amount of any such grant shall not exceed 80 per centum of the cost of carrying out such responsibilities.".

(b) Section 308(a)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(a)(1)) is amended—

(1) in subparagraph (B) thereof, by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)"; and

(2) by redesignating subparagraphs (C) through (F), and any references thereto, as subparagraphs (D) through (G), respectively, and inserting immediately after subparagraph (B) the following new subparagraph:

"(C) grants, under subsection (c)(2), to coastal states to carry out their responsibilities under the Outer Continental Shelf Lands Act;".

(c) Section 308(h) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(h)) is amended by striking out "subsections (c)" each place it appears and inserting in lieu thereof "subsections (c)(1)".

(d) Section 308(k)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(k)(1)) is amended by striking out "and (c)" and inserting in lieu thereof "and (c)(1)".

(e) Section 318(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(a)) is amended—

(1) by redesignating paragraphs (4) through (8), and all references thereto, as paragraphs (5) through (9), respectively; and

(2) by inserting immediately after paragraph (3) the following new paragraph:

"(4) such sums, not to exceed $5,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, as may be necessary for grants under section 308(c)(2), to remain available until expended;".

(f) Section 318(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(b)) is amended—

(1) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)(2)"; and

(2) by striking out "subsections (c)" and inserting in lieu thereof "subsections (c)(1)".

STATE MANAGEMENT PROGRAM

SEC. 504. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or".

TITLE VI—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 601. (a) In a report submitted within six months after the date of enactment of this Act, and his annual report thereafter, the Secretary of the Interior shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 602. As soon as feasible and no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 603. (a) The purpose of this section is to encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for, and, as appropriate, issue certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determining—

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation.

Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy. To the maximum extent practicable, such statement shall be promulgated and published within one year after the date of enactment of this section.

(c) For purposes of this section, the term—

(1) "local distribution company" means any person—

(A) engaged in the distribution of natural gas at retail, including any subsidiary or affiliate thereof engaged in the exploration and production of natural gas; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof;

(2) "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act; and

(3) "Commission" means the Federal Energy Regulatory Commission.

ANTIDISCRIMINATION PROVISIONS

SEC. 604. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to prohibit all unlawful employment practices and to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, whether through agency and department provisions or rules, shall be similar to those established and in effect under title VI and title VII of the Civil Rights Act of 1964.

SUNSHINE IN GOVERNMENT

SEC. 605. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1979, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and

provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 606. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal departments and agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1) (A) a determination of the maximum attainable rate of production (MAR) of crude oil and natural gas from significant fields on the Outer Continental Shelf; and

(B) an analysis of whether the actual production has been less than the MAR and, if so, the reasons for the differences;

(2) an estimate of the total discovered crude oil and natural gas reserves by fields (including proved and indicated reserves) and undiscovered crude oil and natural gas resources (including hypothetical and speculative resources) of the Outer Continental Shelf;

(3) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(4) an independent evaluation of trade association procedures for estimating Outer Continental Shelf reserves, ultimate recovery, and productive capacity for years in which trade associations made such estimates. In order to provide maximum opportunity for evaluation and continuity, the Secretary shall obtain all the available data and other records, including a description of the methodology and estimating procedures, which the trade associations used in compiling their data with respect to the reserves.

(e) The Secretary shall, not later than one year after the date of enactment of this section, submit an initial report to the Congress. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the information required in subsections (d)(1)(A), (d)(2), and (d)(3) of this section on the day following the first complete calendar year after such date of enactment, and every two years thereafter. The Secretary shall make separate reports on the data acquired pursuant to subsection (d)(4) of this section as follows:

(1) Within six months after the date of enactment of this section, a report on the acquisition and details of trade association data and information.

(2) Within twelve months after submission of the report required by subsection (e)(1) of this section, an evaluation of the trade association materials.

(3) Within twelve months after submission of the report required by paragraph (2) of this subsection, a report on the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purposes of this section, the term—

(1) "maximum attainable rate of production" or "MAR" means the maximum rate of production of crude oil and natural gas which may be produced under actual operating conditions without loss of ultimate recovery of crude oil and natural gas; and

(2) "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 607. Not later than ninety days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation, or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment,

is properly trained to operate, or supervise the operation of, such equipment, as the case may be.

RELATIONSHIP TO EXISTING LAW

SEC. 608. (a) Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

(b) Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy.

And the House agree to the same.

HENRY M. JACKSON,
FRANK CHURCH,
J. BENNETT JOHNSTON,
JAMES ABOUREZK,
DALE BUMPERS,
CLIFFORD P. HANSEN,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

JOHN M. MURPHY,
MO K. UDALL,
JOSHUA EILBERG,
GERRY STUDDS,
BILL HUGHES,
GEO. MILLER,
CHRISTOPHER J. DODD,
JOHN F. SEIBERLING,
HAMILTON FISH, JR.
EDWIN B. FORSYTHE,
DON YOUNG,
JOHN D. DINGELL,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recomended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment.

The provisions of the Senate bill and the House amendment considered by the committee on conference were based on identical bills introduced in the opening days of the 95th Congress. These bills were thereafter amended by the House Ad Hoc Select Committee on the Outer Continental Shelf and the Senate Committee on Energy and Natural Resources and then by the full House and Senate. To fully inform the House and the Senate as to the effect of the amendment contained in the accompanying conference report, the managers will set forth, with the exception of certain technical and conforming changes, an explanation of all differences and the resolution of the differences, section by section.

SECTION-BY-SECTION DISCUSSION

TITLE I—FINDINGS AND PURPOSES

Section 101—Findings

This section follows provisions in both the Senate bill and the House amendment in setting out a number of findings about the current and future energy supply situation, and the potential role of the oil and gas resources of the Outer Continental Shelf (OCS), the intent of which are clear.

The House amendment contains a finding that OCS lands and resources are public property held in trust. The Senate bill contains no such provision. The House receded to the Senate and the conference report contains no such provision.

Findings in the House amendment pointed out that OCS impacts and policies and programs specifically apply to and impact on States and on local governments. The Senate bill does not include any specific

language as to local governments. The conference report incorporates a modified version of the House amendment. First, finding (10) recognizes that there is a possibility of adverse impacts on States and on local government units within States. Finding (11) provides that affected local governments are to have access to planning information and to make comments on decisions, but through States. States are to work in close cooperation with affected local governments to insure such access and input.

The change is the first of several that the managers made as to the involvement of local governments in OCS activities and decisionmaking. Other changes will be explained as they arise in this discussion. In general, it is intended that local governments are generally to act through their State government representatives; that data and recommendations are to be forwarded to and by local governments through State governments. Which local governments are to be considered affected will be determined by the Governors of affected States. In addition, the managers intend that there is to be no independent basis for legal action by a local government unit against activities under this act, or actions pursuant to this act, because of a dispute with a State government as to whether they are "affected" and regarding any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

The conference report includes as a finding (14), language in the Senate bill not contained in the House amendment, which details the need to develop resources in light of long-range energy needs and adequate protection of renewable resources. In addition, the conference report includes as a finding (15) language in the Senate bill, not contained in the House amendment which states that funds should be made available for damages to commercial fishing vessels and gear.

Section 102—Purposes

This section follows provisions in both the Senate bill and House amendment stating the purposes of the act, the intent of which is clear.

Purpose No. (1) follows the Senate bill and provides that the policies and procedures for managing OCS resources are those "which are intended to result in expedited exploration and development of the area". The House amendment contains no such language. The conference report thereby emphasizes the need for the expeditious yet safe exploration and development of the Outer Continental Shelf.

The House amendment specifically refers to local governments in purposes (4), (5), and (6). The Senate bill does not include such references in these provisions. The conference report adopted a modified version of the House amendment, which makes it clear, as noted in the discussion on Section 101, that the purposes of the act are to assist and involve local governments, but only "through States".

The Senate bill includes a purpose (10) to establish a fishermen's fund to compensate for damages to commercial fishing vessels and gear, resulting from Outer Continental Shelf activities. The House amendment contains no such explicit purpose, but does later provide for the establishment of such a fund. The conference report includes the referenced purpose of the Senate bill calling for the establishment of a fishermen's contingency fund.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

This title contains a series of amendments to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331–9) (OCS Act).

Section 201—Definitions

Both the Senate bill and House amendment, in similar language, provide definitions for use throughout the bill. The conference report resolves the minor differences between the two versions and amends section 2 of the OCS Act.

New definition of "Serectary"—Section 2(b)

The House amendment changes the definition of "Secretary" to insure applicability not only to the Secretary of the Interior but to the Secretary of Energy or the Federal Energy Regulatory Commission, where appropriate, as certain functions under the OCS Act were transferred to them pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) (DOE Act). The Senate bill contains no such language. The conference report adopts the House definition of the term "Secretary". In addition, the conference report adopts specific language in section 608(b) to make it explicit that the passage of this act is not to modify provisions of the DOE Act transferring authority or functions.

The managers recognize the need for a new definition for the term "Secretary" in order to maintain the responsibilities of the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) in light of the enactment of the Department of Energy Organization Act (Public Law 95–91).

Specifically, under section 302(b), transferred to the Secretary of Energy are the "functions of the Secretary of the Interior to promulgate regulations under the Outer Continental Shelf Lands Act, ... which relate to the—

(1) fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures);

(2) implementation of alternative bidding systems authorized for the award of Federal leases;

(3) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements);

(4) setting rates of production for Federal leases; and

(5) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind.

In addition, the DOE Act also provides that functions of the Secretary of the Interior to establish production rates for all Federal leases are to be transferred to the Secretary of Energy.

The DOE Act also established a leasing liaison committee composed of employees of the Department of Energy and the Department of the Interior to provide an institutional coordinating mechanism to supplement and to assist in alternative interdepartmental coordination efforts

regarding energy mineral leasing. In addition, the DOE Act directs the Secretary of Energy to consult with the Secretary of the Interior during preparation of regulations relating to certain provisions in Federal leases. Furthermore, the DOE Act directs the Secretary of the Interior to afford the Secretary of Energy not less than 30 days prior to granting a Federal lease to disapprove any term or condition of such lease which relates to a matter within the Secretary of Energy's area of responsibility.

Finally, the DOE Act provides that the Department of the Interior shall be the lead agency for purposes of preparation of an environmental impact statement as required by Section 102(2)(C) of the National Environmental Policy Act for any action with respect to Federal energy mineral leases, unless the action involves matters within the exclusive authority of the Secretary of Energy.

In addition to this new definition of "Secretary" and conforming language in section 608(b), the Managers have also made certain changes throughout the bill, and will provide comments in this explanation to more specifically indicate the appropriate delegation, under the DOE Act, of responsibilities between the Secretary of the Interior, the Federal Energy Regulatory Commission, and the Secretary of Energy.

New definition of "lease"—Section 2(c)

The House amendment defines "lease" to authorize exploration, development, and production of "geothermal steam". The Senate bill authorizes leases for "geothermal resources." There are also punctuation and structural differences between the two provisions defining "lease". The conference report follows the House amendment by changing the term, "mineral lease," in the OCS Act of 1953, to "lease" so as to more properly describe the authorization for the exploration, development and production of oil and gas or other mineral resources; and by adding a new definition of "minerals" to make it explicit that the Secretary of the Interior has the power to lease geothermal resources on the OCS.

Additional definitions

The conference report retains new definitions included in both the Senate bill and the House amendment for the terms "coastal zone", "affected State", "marine environment", "coastal environment", "human environment". "Governor", "exploration", "development", "production", "antitrust law", "fair market value", "major Federal action", and "minerals."

In the definition of "affected State", the Managers intend that the "Secretary", determining applicability of this provision in certain circumstances, is to be the Secretary of the Interior. In the definition of "affected State", the House amendment adds "directly to such State" to relate to oil transported. The Senate bill contains no such phrase. The conference report follows the House amendment, so that oil indirectly transported would not, in and of itself, qualify a State for "affected State" status.

In the definition of "human environment", the House amendment refers to "esthetic" components and applies to the "recreation, air and water" of those areas affected. The Senate bill does not include such references. The conference report is the same as the Senate bill.

In the definition of "exploration" the House amendment describes drilling "on or off geological structures", while the Senate bill describes such drilling as "on or off known geological structures". The conference report follows the Senate bill, adopting the phrase "on or off known geological structures".

The definition of "exploration" and "development" of the House amendment discusses discovery "in paying quantities", while the Senate bill refers to discovery "in commercial quantities". On this technical difference, the conference report follows the House amendment, employing the phrase, "in paying quantities"—presently used in OCS practice. Also the House amendment defines "development" to include "pipeline routing". The Senate bill contains no such reference. The conference report adopts the language of the House amendment.

In the definition of "major Federal action" as to actions by the Secretary calling into operation the provisions of the National Environmental Policy Act (NEPA), "Secretary" means the Secretary of the Interior.

Regarding the definition of the term "fair market value", the Managers intend that the determination by the Secretary of the Interior of fair market value is to be undertaken in consultation with the Secretary of Energy. This term, as defined in subsection (o), is only used in this act in relation to the purchase and distribution of oil and gas under section 27.

The House amendment defines "frontier area" for the purpose of applying certain procedures required by the OCS Amendments. The Senate bill contains no such definition. The conference report follows the Senate bill and contains no such definition. The inapplicability of provisions of this Act to specific areas are specifically detailed in the conference report and will be noted in this discussion as appropriate.

The House amendment defines "minerals" to include all kinds of resources. The Senate bill contains no such provision. This change in the House amendment has resulted in a number of technical changes throughout the House amendment, deleting references to oil, natural gas, and geothermal resources, which are contained in the Senate bill. The conference report is the same as the House amendment, defining "minerals".

The managers recognize that "geopressured—geothermal and associated resources" included in the new definition of "minerals", apply to such combined resources as methane, heat and kinetic energy and that these resources may sometimes be developed with other hydrocarbons. Much progress is expected to be made in developing the technology to produce and utilize the resources. The managers therefore intend that the Secretary have the flexibility to issue leases for—geopressured—geothermal and associated resources either alone or in combination with oil and gas leases.

Section 202—National policy for the Outer Continental Shelf

Section 202 amends section 3 of the OCS Act, originally a jurisdictional provision, and makes it into a declaration of national policy. The original provisions of section 3, providing that the subsoil and seabed of the OCS belong to the United States and that all existing rights of navigation and fishing in OCS waters are to be continued, are restated.

Policy statements are added to emphasize that the OCS is held for all the people, and its resources should be made available for expeditious and orderly development subject to environmental safeguards, and with due consideration to affected States.

The House amendment as to adverse effects policy (4)(A), contains reference to impacts on "affected local governments". The House amendment as to policy (4)(B), on participation, contains references to "affected local governments". The House amendment as to purpose (5), dealing with recognition of local rights and responsibilities, includes specifically "local governments". The Senate bill contains no such references. In all of the above-mentioned policy statements, the conference report adopted a modified version of the House amendment.

Policies for assistance, participation, and consideration are to involve local governments "through States", and "where appropriate." As the discussion in the explanation on references to local governments in the findings (sec. 101) noted, such references to local governments' involvement in this Act provide no independent basis for legal action by a local government unit against activities under this act, or actions pursuant to this act, because of a dispute with a State government as to whether they are "affected", or regarding any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

Section 203—Laws applicable to the Outer Continental Shelf

Both the Senate bill and the House amendment amend section 4(a)(1) of the OCS Act of 1953 by changing the term "fixed structures" to "and all installations and other devices permanently or temporarily attached to the seabed" and making other technical changes. The conference report retains this language.

The intent of the managers in amending section 4(a) of the 1953 OCS Act is technical and perfecting and is meant to restate and clarify and not change existing law. Under the conference report language, Federal law is to be applicable to all activities on all devices in contact with the seabed for exploration, development, and production.

One particular aspect of federal law, and its applicability to OCS operations, was specifically addressed by the conferees—application of U.S. customs laws.

The conferees were informed that the U.S. Customs Service has interpreted existing section 4(a)(1) to mean that foreign-built production platforms are not subject to import duties when they are brought into OCS waters and attached to the seabed. Specifically, the Customs Service has stated that such platforms are not actually being imported to the United States until they are placed on the shelf and need not pay customs duties.[1] The conferees reject this interpretation and believe it is contrary to the intent of Congress in enacting the 1953 act. Moreover, to make it explicit that this interpretation should not be continued to be given effect, the conferees state that one of the purposes of this change in 4(a)(1) is to make it clear that U.S. custom duties are to apply to platform, built overseas, and brought into OCS waters

[1] The Customs Service indicates that once the platforms are in place, machinery, equipment, and other items placed on the structure are subject to duties. Of course, the conferees believe this is, and continues to be, the law.

for placement so that it can be used to develop and produce OCS minerals.

Under section 4(a)(1) of the conference report, Federal laws and "civil and political jurisdiction of the United States" are applicable to the subsoil and seabed of the OCS, to all artificial islands and "all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon" to explore, develop, produce or transport OCS mineral resources. This customs laws apply—as within the "political and civil jurisdiction" of the United States—to platforms constructed outside the United States and brought into OCS waters—as being "installations and other devices * * * which may be erected thereon".

Section 4(a)(2) of the OCS Act provides that when Federal law or regulations are not applicable, the laws of adjacent States are to apply "to that portion of the subsoil and seabed of the Outer Continental Shelf, and artificial islands and fixed structures erected thereon." Considerable case law has developed as to the effect of this provision. The House amendment includes a paragraph (3), changing 4(a)(2) to utilize the conforming "islands and installations" language. The intent is only technical. Some concern was raised, however, that a change might be interpreted as being substantive. The conference report therefore follows the Senate bill and makes no change in section 4(a)(2).

The Senate bill adds a new section 4(a)(2)(B)—and conforming changes—to provide for the establishment of international boundaries dispute settlement procedures. The House amendment contains no such language. The conference report includes the boundary dispute settlement provision of the Senate bill.

The conference report also adopted a conforming change to section 4(c) of the 1953 OSC Act. Section 4(c) describes the application of the Longshoremen's and Harbor Workers' Compensation Act and makes reference to section 4(b) of the original 1953 act. Section 4(b), providing the jurisdictional bases for cases and controversies, has been deleted and an analogous provision adopted as part of a comprehensive section 23 on "Citizen Suits, Court Jurisdiction, and Judicial Review."

It was therefore necessary to more specifically describe the applicability of the Longshoremen's Act to OSC activities. This amendment involves no change in existing law. It was not the intent of the managers to alter in any way the existing coverage of the Longshoremen's Act, nor of other remedies that may be available for injury or death.

Section 4(f) of the Outer Continental Shelf Lands Act of 1953 provides that the authority of the Corps of Engineers to prevent obstructions to navigation is extended to artificial islands and fixed structures located on the Outer Continental Shelf. This authority has been used by the Corps of Engineers to regulate the construction and location of such things as artificial fishing reefs, radio towers, and a proposed gambling casino which was to be constructed on reefs. It also applies to structures erected for the purpose of exploring for and transporting resources, such as oil drilling rigs.

As indicated above, section 203 of the conference report amends section 4 by changing the phrase "artificial islands and fixed structures" in subsection (a) to "artificial islands and all installations and other devices permanently or temporarily attached to the seabed".

In addition, a conforming change to old section 4(b), the new section 4(f), relating to the authority of the Corps of Engineers, describes it as applying to artificial islands, installations and other devices referred to in subsection (a).

Again, these changes were technical only and there was no intent to change present law. The existing authority of the Corps of Engineers, in subsection 4(f), applies to all artificial islands and fixed structures on the Outer Continental Shelf, whether or not they are erected for the purpose of exploring for, developing, removing, and transporting resources therefrom. The amendment to subsection 4(f) is not intended to change the scope of this authority, but merely to conform the description of the types of structures, no matter what their purpose, to the types of structures listed in subsection (a), namely all installations and other devices permanently or temporarily attached to the seabed. It is not the intention of the conferees to limit the authority of the Corps of Engineers as to structures used for the exploration, development, removal, and transportation of resources.

The House amendment adds a new paragraph 4(e)(3), for agreements by owners or operators of foreign vessels working on the Outer Continental Shelf, providing that such vessels are to conform to the laws of the United States and applicable regulations. The Senate bill contains no such provision. The House receded and the conference report contains no such provision. (The conference report does provide in a separate section 30, discussed later, certain requirements for foreign vessels.)

Section 204—Outer Continental Shelf exploration and development administration

This section amends section 5 of the Outer Continental Shelf Lands Act of 1953 by providing detailed requirements for the administration of leasing on the OCS.

General regulatory authority—Section 5(a)

Subsection (a) of section 5 is now to provide that leasing be administered by the Secretary of the Interior, the Secretary of Energy, and the Federal Energy Regulatory Commission, in accordance with their respective authority (see discussion on section 2(b)), who are to promulgate all necessary regulations to carry out their responsibilities. These regulations are to be applicable to any lease in effect at the date of promulgation, as well as to any lease to be let in the future. Of course, the appropriate "Secretary" is not required to repromulgate regulations already consistent with the 1978 amendments. He may retain present appropriate and effective rules.

In this section, "Secretary" means the appropriate Secretary with responsibility to promulgate regulations; the Secretary of the Interior, the Secretary of Energy, or the FERC.

Minor grammatical and structural differences between amended section 5(a) in the House amendment and the Senate bill have been reconciled.

The original subsection (a) of section 5 of the OCS Act granted very broad authority, with few guidelines, to promulgate regulations. The amended subsection, while not limiting the generality of the power granted to promulgate any appropriate regulation, does provide statu-

tory guidelines and requirements for certain types of regulations, and together with the requirements of other subsections provides a mechanism for coordinated bureaucratic action.

The Senate bill specifically provides that regulations apply "as of the date of their promulgation". The House amendment contains no such specific language. The conference report provides that they apply "as of their effective date," to all operations conducted under a lease or permit issued or maintained under this act, thus explicitly adopting the intent of both versions.

The House amendment provides that in formulating and promulgating regulations on matters which may affect competition, the views of the Attorney General and the Federal Trade Commission are to be requested and then to be given "due consideration". The Senate bill provides for such requests and consideration only as to the views of the Attorney General. The conference report adopts the Senate language but specifies that in reviewing regulations, and preparing comments, the Attorney General must consult with the Federal Trade Commission.

Accordingly, the Secretary is only mandated by this section to request the opinions of the Attorney General regarding competition matters.

Of course, under the general authority in section 5(a) for the proper promulgation of appropriate regulations, the Secretary may consult with any other appropriate department or agency, including the Federal Trade Commission.

In addition, the conferees expect that the Secretary give consideration to the views of other federal agencies (such as the Federal Trade Commission) with respect to the competitive impact of the proposed regulations. The Secretary should make available to those agencies whatever information or data the agencies require to analyze adequately the competitive impact of the regulations.

After the Secretary makes a request as to advice on regulations, the Attorney General must consult with the Federal Trade Commission regarding competition matters. He should do so, of course, in an expeditious manner, to assure FTC input and no delays in the regulatory adoption procedure.

The Attorney General may then submit any views or recommendations to the Secretary, but he is not required to do so. Any recommendations or views of the Attorney General, after consultation with the Federal Trade Commission, must be submitted expeditiously. In accordance with administrative procedures concerning all regulations, views must be submitted during the appropriate comment period. If no views or recommendations are submitted within the appropriate time frame, the Secretary is free to promulgate regulations.

No other agency, including the Federal Trade Commission, is barred from independently submitting views or recommendations to the Secretary.

To allow thorough and adequate consideration of any views and recommendations, any views or recommendations must set forth the reasons, including the pertinent factual and policy considerations and legal precedents, if any, which led to such views or recommedations. The failure of the Attorney General to submit views, or the Secretary

to accept recommendations, are not an independent basis for a cause of action by a third party.

Suspension—Section 5(l)(1)

The conference report adopts the almost identical provision in both the Senate bill and the House amendment, dealing with suspensions of operations or activities.

The Senate bill provides for suspension at the request of lessee, "in the interest of conservation". The House amendment provides for such requested suspensions when "in the national interest". The conference report is the same as the House amendment—thus specifically granting a broader basis for a grant of a requested suspension, including allowing the grant of requested suspensions to facilitate timely development of a lease.

The House amendment allows suspension at the request of lessee "to allow for the construction or negotiation for use of transportation facilities". The Senate bill provides for suspension at the request of a lessee "to allow for the unavailability of transportation facilities". The conference report is the same as the House amendment.

The conference report provides that the Secretary of Interior, after authorizing a suspension either at the request of a lessee or, on his own, because of a threat of "serious, irreparable or immediate harm," shall extend a lease equivalent to the period of suspension unless the basis for the suspension is the result of gross negligence, or willful violation of applicable regulations or lease or permit terms. In determining whether the Secretary of Interior should deny an extension because of gross negligence, in complying with, or willful violation of, diligence requirements, he should solicit and consider written comments from the Secretary of Energy.

The present requirement that leases are to be generally extended so long as oil and gas is being produced is retained and clarified.

Cancellation—Section 5(a)(2)

The conference report adopts a comprehensive provision, based on similar language in the Senate bill and House amendment, authorizing cancellation of a lease or permit, in appropriate circumstances, because of probable serious harm or damage.

The Senate bill in paragraph 5(a)(2) provides that cancellation is not to occur until there has been suspension for a 5-year period, or a lesser period at the request of a lessee. The House amendment contains no such provision. The conference report follows the Senate bill, providing for cancellation only after a 5-year suspension period, or a lesser period at the request of a lessee.

The Senate bill contains detailed provisions for the determination of compensation after cancellation with no fault involved—as the lesser of (1) fair value of rights or (2) excess of expenses over revenues. The House amendment provides that such cancellation "shall not foreclose any claim for compensation as may be required" by the Constitution or law. The House receded, and the conference report language is the same as the Senate bill, providing for a two-step formula for new leases and a one step formula—fair value of rights—for old leases. Thus, under 5(a)(2), explicit authority is given to the Secretary to cancel a lease; and once a cancellation without fault

occurs, a lessee is entitled to compensation according to the appropriate formula.

In deciding whether to order a cancellation, the Secretary of the Interior is to solicit and consider written comments from the Secretary of Energy as to the advantages and disadvantages of cancellation as against the advantages and disadvantages of development and production.

General provisions on regulations

The Senate bill contains provisions requiring regulations for the sale of royalty, net profit or purchased oil and gas, for use of new bidding systems and for citizen suits. The House amendment contains no such requirements in this section. The Senate receded and the conference report does not include these provisions in this section. Specific requirements are included later in the conference substitute in those sections dealing with royalty or purchased oil and gas, citizen suits, and bidding systems.

Clean air

The House amendment requires regulations for compliance with national ambient air quality standards and requirements (8), and for the establishment of air quality standards for OCS operations (9). The Senate bill contains no such provisions. The conference report does not adopt a paragraph (9) but does include a revised paragraph (8), of section 5(a) of the House amendment, to provide for regulations to be promulgated by the Secretary of Interior for compliance with national ambient air quality standards pursuant to the Clean Air Act, to the extent that the activities under the OCS Act significantly affect the air quality of a State.

The Secretary of Interior is to promulgate regulations implementing this paragraph. The standards of applicability the conferees intended the Secretary to incorporate in such regulations is that when a determination is made that offshore operations may have or are having a significant effect on the air quality of an adjacent onshore area, and may prevent or are preventing the attainment or maintenance of the ambient air quality standards of such area, regulations are to be promulgated to assure that offshore operations conducted pursuant to this act do not prevent the attainment or maintenance of those standards. The terms "may have" and "may prevent" refer to the Secretarial judgment regarding future consideration of exploration plans, or development and production plans, in which the potential for "significant effect" is analyzed prior to approval and thus commencement of the proposed activities.

The conferees agreed that if an approved State implementation plan has ambient air quality standards which are more stringent than the national ambient air quality standards, the Secretary of the Interior shall, with appropriate regulations, assure that offshore operations conducted pursuant to this act do not prevent the attainment of those State standards, if the air quality of that State is significantly affected by such offshore operations. These State standards and any national standards would not, however, apply to the quality of air above the OCS itself, or to OCS activities located in other parts of the country.

The conferees' intent was that the regulations promulgated by the

Secretary not generally require that the air mass above the OCS itself be brought into compliance with national or State ambient air quality standards but that regulations might be appropriate for the air above or near an artificial installation or other device (platform), so that emissions from such source is controlled to prevent a significant effect on the air quality of an adjacent onshore area.

Other provisions in the conference report provide that exploration plans, and development and production plans, are to comply with any regulations promulgated pursuant to section 5(a)(8) of the amended OCS Act. Thus, in considering approval, modifications, and disapproval of a submitted exploration plan, or a development and production plan, the Secretary is to insure compliance with any applicable regulations promulgated, pursuant to section 5(a)(8).

The conferees do not intend that the application of section 5(a)(8) regulations will interfere with the time periods provided in the conference report for review and approval of explorations plans, and development and production plans. The conferees expect that these regulations will be implemented consistenly with the timetables established by these amendments.

The managers were aware that on April 13, 1978, the Environmental Protection Agency made a notice of determination that the Clean Air Act, as amended (42 U.S.C. sec. 7401 et seq.) and regulations promulgated thereunder, apply to activities on the Outer Continental Shelf when such activities could affect the air quality of an adjacent State.

By their adoption of requirements for regulations for compliance with air quality standards, the conferees do not intend to supersede the Clean Air Act or the responsibilities of the EPA Administrator. There is no intent to affect, extend or reduce, whatever present authority the Environmental Protection Agency has in applying and enforcing the Clean Air Act, including the use of EPA's permitting authority.

Specifically, the conferees intend that the Secretary of Interior shall be guided by the Clean Air Act, in consultation with the Environmental Protection Agency, in promulgating regulations to maintain consistency with ambient air quality standards, and its procedures establishing the technological means for controlling air emissions.

It is expected that some activities may not have significant effects because of distance from shore or meteorological conditions that blow the pollution out to sea. If an OCS activity or facility is determined to have no such significant effect, when, for example, it is located many miles from the coast, the requirements of the regulations under section 5(a)(8) would not apply.

Pipeline rights-of-way

The original OCS Act of 1953 provides in section 5(e) for rights-of-way for pipeline purposes for the transportation of minerals. The conference report adopts certain technical changes to this subsection from the House amendment and Senate bill.

The House amendment provides in section (5)(e) for regulations to be prescribed by "the Secretary (of Interior), or where appropriate, the Secretary of Transportation." The Senate provides for regulations and conditions as may be prescribed by "the Secretary (of Interior) ...

not inconsistent with regulations promulgated by the Secretary of Transportation under the Natural Gas Pipeline Safety Act of 1968." The conference report is the same as the House amendment.

The House amendment provides in section (5)(e) for regulations and conditions "including (as provided in section 21(b) of this act) utilization of the best available and safest technology for pipeline burial and other procedures." The Senate bill provides for conditions and regulations "including assuring maximum environmental protection by utilization of the best available and safest technology, including the safest practices for pipeline burial." The conference report follows the Senate bill, with the addition of the phrase "(as provided in section 21(b) of this act)" from the House amendment. Section 21(b), as will be discussed later, notes that more than one technology may be acceptable as "the best available and safest." To emphasize the point, a technical change was adopted to make "technology" plural.

The House amendment also provides for nondiscriminatory pipeline transportation or purchase as to oil or natural gas "produced from such lands in the vicinity of the pipeline." The Senate bill contains no such production area reference. The conference report follows the Senate bill and contains no such reference.

A number of technical changes were made in 5(e) to conform the subsection to present law. The "Federal Power Commission" is changed to "Federal Energy Regulatory Commission." The phrases "in the case of gas and Interstate Commerce Commission" and "in the case of oil" were stricken. And the "Administrator of the Federal Energy Administration" was changed to the "Secretary of Energy."

Pipeline competition

The Senate bill alone contains a subsection (f) detailing the competitive principles for pipeline transportation of OCS oil and gas. The provision in the Senate bill is intended to (1) prevent "bottleneck monopolies" and other anticompetitive situations involving OCS pipelines and (2) promote efficiency and sound planning involving pipeline sizing. The House amendment contains no such provision. The conference report adopts the provision of the Senate bill with an amendment. The agreed-to subsection (f) provides for open and nondiscriminatory access to apply to all pipelines and is a reaffirmation and strengthening of subsection 5(e), which provides for the transport or purchase of all OCS oil and gas "without discrimination."

In addition, in the case of new pipelines, except in the Gulf of Mexico and Santa Barbara Channel, the Secretary is given the discretion to order an expansion of throughput capacity. However prior to doing so: (1) There must be a specific request by a shipper, owner or nonowner; (2) there must be a full hearing after due notice; (3) there must be a finding that expansion is within technological limits and economic feasibility.

If such expansion is ordered, then the requesting shipper must be responsible for bearing the proportionate share of costs and risks related to the expansion.

The conferees recognize that there may be circumstances in which it would be appropriate and fair to all concerned for the company requesting expansion of a pipeline's throughput capacity to pay the

pipeline owner both (1) a proportionate share of the incremental cost associated with the expansion, and (2) a proportionate share of the current value of the pipeline.

If, for instance, an expenditure of $14 million for new pumps would double the throughput capacity of a pipeline having a current value of $200 million, it might be entirely fair and reasonable under all the circumstances—especially those involving the promotion of financial incentives and competition and the protection of investments—for the company requesting the expansion to pay a share of the $14 million and a share of the $200 million. If the requesting company had to pay only a share of the $14 million, it might be able to take full advantage of the expansion without having to bear any of the cost or risk previously assumed by the pipeline owner.

The language agreed to by the conferees, therefore, authorizes a determination to be made whether the requesting company should pay the pipeline owner a portion of the current value in addition to a portion of the incremental cost of expansion.

Whenever it is determined that the requesting company should bear a proportionate share of the costs and risks of the pipeline itself and not just the expansion, the share should not exceed the expected percentage of the company's average throughput. In addition, the price of such share should be consistent with rate base and rate of return regulations, and payment in appropriate circumstances, may confer to the requesting company an equivalent portion of the ownership and control of the pipeline.

The conferees were explicit that expansion may not be ordered under this section for any pipeline operating in a developed area (the Gulf of Mexico and the Santa Barbara Channel) and for any pipeline authorized prior to the date of enactment of this bill.

The conferees believe that provisions for nondiscriminatory access and expansion of capacity upon request are ordinarily not appropriate for feeder lines to a facility where oil and gas are first collected, or where oil or gas are first separated, dehydrated, or otherwise processed. Thus, in most cases, such lines would be exempted from the requirements of this subsection. Such exemption, however, is to occur only after a review and if necessary, a hearing, and then an appropriate order or regulation.

In conformity with present agency responsibility, this subsection provides that the application of competition principles are to be undertaken by the Department of Energy and FERC where appropriate. The discretionary decision of throughput expansion is to be made by FERC.

In implementing this subsection and applying competitive principles, the Secretary of Energy and the FERC are to consult with and give due consideration to the views of the Attorney General, who in turn is to consult with the Federal Trade Commission. Once again, in submitting his views, the Attorney General is to set forth the reasons for his views, and any recommendations, including the pertinent factual and policy considerations and legal precedents, if any. No independent cause of action is created by this consultation requirement. Therefore, the failure of the Attorney General to submit his views, or the insufficiency of the reasons given for his views and recommenda-

tions, are not to be an independent basis for a law suit. Furthermore, the conferees do not intend to abridge any existing authority of any agency or department, including the Federal Trade Commission, to solicit or give comments as to this or any other provision of this bill or actions taken in accordance with such provisions. (See discussion in this statement of managers on section 5(a) as to Attorney General and Federal Trade Commission role, responsibilities and independent authority.)

Finally, as specifically stated in paragraph (4) nothing in this subsection on pipeline competition is intended to alter present authority, under any other provision of law, of any agency of the United States with respect to pipelines on or across the OCS.

Rates of production

Both the House amendment and Senate bill provide for production of oil and gas at determined rates. Rates must be set that are consistent with any rule or order issued by the President in accordance with other laws. If no such rate or order has been issued, rates must be consistent with regulations established to assure maximum production as described in section 5(g)(2). The conference report adds a technical change, adding "of Energy" to make explicit that the reference to "Secretary" to promulgate regulations as to production rates in this provision means the "Secretary of Energy" in accordance with section 302(b)(4) of the DOE Act.

The Senate subsection as to rates of production includes a paragraph (3) amending the Energy Policy and Conservation Act of 1975 to require the publication of final rules on the maximum efficient rate of production. The House amendment contains no such language. The conference report follows the House amendment, and paragraph (3) from the Senate bill was deleted.

Coordination of and recommendations on OCS activities

The House amendment contains a subsection providing for the coordination of activities of all Federal agencies by the Secretary of Interior, and for notification to the Secretary of Interior of all OCS related actions by any Federal department or agency.

The Senate bill contains no such provisions. The conferees adopted the House amendment with an amendment which provides that, in order to facilitate coordinated Federal action on OCS activities, the head of any Federal department or agency taking any action significantly affecting OCS activities is to notify the Secretary of the Interior of this action. The Secretary is thereafter to notify Governors of affected States. After such notification, the Secretary may recommend changes to the agency or department proposing such action.

The Governor of any State shall have the right to be notified of any action. However, no third party, including citizens, shall have the right to raise as a basis for legal action, the failure of the Governor to be notified. The head of the Federal departments or agencies which are to submit notification of an action to the Secretary can be compelled by the Secretary to comply with this coordination mandate. However, the failure of a department or agency to submit such inforcation shall not be a basis for an independent cause of action by any third party. Furthermore, the failure of the Federal department or

agency to accept any recommendations by the Secretary shall not be a basis for an independent cause of action by any third party.

The Secretary of Interior, by receiving notice and information on all actions affecting the OCS, will be able to evaluate the overall effect of any particular Federal decision on OCS policy. In addition, the Governor shall be able to look to one person—the Secretary—to receive information concerning any Federal Government action affecting OCS areas impacting on his jurisdiction.

Section 205—Revision of bidding and lease administration

New bidding systems

Section 205 amends section 8 of the OCS Lands Act by providing new bidding options and procedures.

The original OCS Lands Act of 1953 provides that leases are to be awarded to the highest responsible qualified bidder, through competitive and sealed bidding procedures, on the basis of a cash bonus, with a fixed royalty of no less than 12½ percent, or on the basis of a royalty, at no less than 12½ percent, and a fixed bonus. Subsection (a) of section 8 is amended to still require competitive, sealed bidding procedures and to still authorize bonus and royalty bids, but now also to authorize a number of new bidding systems.

Under this act, and in accordance with the DOE Act, the Secretary of the Interior retains the power to issue leases. The Secretary of Energy is to retain responsibility for promulgating regulations implementing alternative bidding systems (see sec. 302(b)(2) of the DOE Act). Both Secretaries are to continually consult with each other in accordance with sections 303(b) and 303(c) of the DOE Act.

The House amendment provides in (a)(1) for regulations for the depositing of cash bids in an interest-bearing account and for earned interest to be paid to the Treasury when bids are accepted, and to unsuccessful bidders if bids are rejected. The Senate bill contains no such provision. The conference report follows the House amendment by providing for such regulations.

Both the Senate bill and the House amendment contained specific provisions authorizing variable royalty, variable net profit, fixed net profit, and work commitment bidding alternatives but use different language and structure to do so. The conference report adopts the Senate bill language and form.

Both the Senate bill and House amendment authorize the use of nonenumerated alternative bidding systems or modifications of bidding systems specifically described.

The Senate bill provides that any nonenumerated system can only be used after having been submitted to Congress and then only if neither House passes a resolution of disapproval within 30 days. The House amendment simply provides that new bidding systems shall be promulgated by rule, after an opportunity for a hearing, and then transmitted to Congress. No provision for disapproval, specifically as to use of new bidding systems, by Congress is included in the House amendment. The conference report follows the Senate bill and contains a one House veto provision for nonenumerated bidding systems, as paragraph (a)(4).

Any such nonenumerated system or modification, while it can include any number of fixed terms, conditions, or parts, can only have one

variable term, condition or part, which would be the basis for the bidding and selection of the successful bidder or bidders.

To comply and conform with the DOE Act, the conference substitute provides that it is the Secretary of Energy who is to submit any non-enumerated or modified bidding system to Congress but that it is the Secretary of Interior who is to conduct lease sales, using such bidding system, if not vetoed by either the House or Senate within the assessed time.

Both versions of S. 9 provide for deferment and installment payments of cash bonuses. The Senate bill provides that the final payment should be made no later than 5 years from the lease sale, or on the date of approval of development and production plan, whichever occurs first. To insure nondilatory action, the House amendment provides in paragraph (a)(2) for final payment no later than 5 years from the date of the lease sale. The conference substitute is the same as the House amendment.

The Senate bill provides for the use of the so-called dual leasing system in the Outer Continental Shelf off of Alaska. The House amendment contains no such provision. The Senate receded and the conference report contains no such provision. Hence, no authorization was granted for leasing just for exploration with exploration lessees sharing in the costs of exploration and receiving a share of revenues from the sales of subsequent development and production leases. It is expected, however, that as part of the requirements of this section that there be a report on bidding options, there should be an evaluation of this so-called dual leasing option—its advisability, practicality, costs, benefits, and risks.

Use of systems and standards

The House amendment contains a provision specifically providing for establishment of previously unauthorized bidding systems, or modifications of such systems, only by rule, after an opportunity for a hearing. The Senate bill contains no such provision. The House receded and this provision is not specifically included in the conference report. The conferees intend that implementation of the newly authorized system be in accordance with the requirements of this act, the Administrative Procedures Act (APA) and other law. Specifically, section 5(a)(1) of this act, as retained in the conference report, provides that competitive bidding regulations are to be "promulgated in advance" of any utilization. Such regulations are promulgated in accordance with requirements of the APA. In addition, section 302(b)(2) of the DOE Act provides authority for the Secretary of Energy to promulgate regulations for use of alternative bidding systems. Such regulations are promulgated in accordance with section 501 of the DOE Act. The conferees expect the Secretary of Interior and the Secretary of Energy to continue to exercise their appropriate respective statutory responsibilities in using new bidding systems.

The House amendment contains a provision detailing the purposes and policies of the new bidding systems. The Senate bill contains no such provision, but a statement of purposes and policies was included in its committee report. The conferees agreed that an expression of purpose and policies was more appropriate for this statement than for

the text of the OCS Act and therefore the conference report follows the Senate bill and contains no such provision.

The conferees intend that in utilizing the new bidding alternatives, a variety of considerations should be taken into account, including, but not limited to: (i) Providing a fair return to the Federal Government; (ii) increasing competition; (iii) assuring competent and safe operations; (iv) avoiding undue speculation; (v) avoiding unnecessary delays in exploration, development, and production; (vi) discovering and recovering oil and gas; (vii) developing new oil and gas resources in an efficient and timely manner; and (viii) limiting administrative burdens on government and industry.

The House amendment contains provisions (1) generally authorizing the requiring of submission of bids based on more than one bidding system and (2) allowing for submission of bids on the basis of more than one bidding system, in order to establish statistical information. The Senate bill contains no such language. The conference report adopts the House language, with an amendment. The Secretary can use the authority of this subparagraph, and require submission of bids based on more than one system, but only for statistical purposes and can use the authority in bidding on not more than 10 percent of all tracts offered each year.

The authority to require bidders to submit bids on the basis of more than one bidding system is to beautilized for the purposes of statistical information, and the actual system upon which a lease will be awarded is to be selected on a random basis. The conferees note that the Secretary of Energy and the Secretary of the Interior maintain their respective responsibilities on alternative bidding systems in accordance with section 302(b)(2), and sections 303(a)–(c) of the DOE Act.

Mandate on use of bidding systems

The Senate bill provides that during each of the next 5 years, bonus bids cannot be utilized in more than 50 percent of the leases offered in previously undeveloped areas. The House amendment provides that new bidding systems are to be utilized in no less than 20 percent and no more than 50 percent of the leases offered in lease sales held for all areas during each of the next 5 years. The conference report follows the House amendment with an amendment. Bidding systems other than bonus bidding, including royalty, net profit, work commitment, and nonenumerated systems, are to be utilized in at least 20 percent and not more than 60 percent of the tracts offered for leasing in *all* OCS areas during each of the next 5 years.

The Senate bill provides that new leasing systems are to be applied using a random selection method. The House amendment contains no such provision. The Senate receded and the conference report contains no such provision.

Although there is no requirement for random selection, the Secretary, in setting forth systems for use on tracts, shall seek to secure a fair selection of different methods on different tracts. The purpose of such a selection is to assure that adequate information is obtained as to relative advantages and disadvantages of the various bidding systems, including the front-end bonus bid systems, as applied to different types of tracts, having different expectations of the amount of hydrocarbons that can be recovered.

The Senate bill provides that the 50-percent limitation on the use of bonus bidding can be waived during the first year by a finding that it would unduly delay development. Thereafter, it can be waived after the submission of a report to Congress, and, if there is no resolution of disapproval by either House, within 30 days after receipt of such report. The House amendment provides that both the minimum on use of new systems and maximum on the use of new systems can be waived if the Secretary determines that such waiver is necessary to comply with the bidding purposes established under the OCS amendments. No procedure for congressional disapproval is included in the House amendment. The conference report adopts the House approach.

The Secretary of the Interior is given the discretion to waive the minimum or maximum requirement for the use of bidding systems other than bonus bidding, based on a determination that either the minimum or maximum percentage level is not consistent with the purposes and policies of the act. Such a determination on the part of the Secretary of the Interior is to be made after consultation with the Secretary of Energy in light of the responsibilities of the Secretary of Energy as to fostering competition and as to promulgating regulations for the use of alternative bidding systems (see secs. 302(b)(1) and 302(b)(2) of the DOE Act.) In addition, the Secretary of Interior retains authority as under present law to reject any bid that is not, in his opinion adequate.

Bidding system report

Both versions of S. 9 require that within 6 months after the end of each fiscal year, the "Secretary" shall submit a report to Congress concerning the use of the various bidding options provided in this subsection. The conference report adopts a technical amendment specifying that it is the Secretary of Energy who is to submit such report "in consultation with the Secretary of the Interior." The bidding system report is both factual and analytical. It is to include a schedule of lease sales held in the past year or to be held in the following year and the bidding systems which have been or are to be used. The Secretary of Energy is to obtain this factual data from the Secretary of Interior and include it in this report. The report is also to include an analysis and evaluation, if applicable, of why a system has not been or will not be utilized and if applicable, why the bonus bid system was used or is to be used in more than 60 percent of the areas actually leased. This analysis and evaluation is to be undertaken by the Secretary of Energy.

The Department of Energy is to solicit the written comments of the Secretary of the Interior as to this analysis on various bidding options; and such comments and recommendations, if not accepted by the Secretary of Energy as part of his statement, shall be separately included in any report.

Lease sale announcement and review

The House amendment contains a provision providing that 30 days prior to a lease sale, a notice must be sent to Congress and published in the Federal Register, identifying bidding systems to be used in that sale, designating tracts having the various systems, and why a system is being used for a tract. The Senate bill contains no such provision.

The Senate receded and the conference report includes the House provision.

The House amendment also contains a provision that the Governor of an affected State, or the chief executive officer of a local government, may request and obtain a public hearing, prior to the initial announcement of the tracts selected for inclusion in a proposed lease sale. The Senate bill contains no such provision. The House receded and the conference report contains no such provision.

The conferees note that present procedures provide for nomination, positive and negative, by all interested parties, including State and local governments. In addition, present procedures, implemented by the Interior Department, pursuant to the National Environmental Policy Act, provide for a public hearing on a draft environmental impact statement, prior to every lease sale. At such a hearing, usually held in the community adjacent to the proposed sale, all interested parties, including State and local governments, may offer comments and suggestions. Such comments and suggestions are to be evaluated and considered by the Secretary in preparing a final environmental impact statement, prior to a lease sale, and then in deciding if, when and how, to conduct such a sale. The conferees deleted the specific mandate for a public hearing on a sale, in light of these present procedures for state and local government and citizen input. This deletion should not be viewed as an attempt to limit public hearings, but simply as an avoidance of duplicative provisions.

Special rules—net profit and work commitment bids

The Senate bill contains a provision providing for establishment of rules to govern the calculation of net profits. The House amendment contains no such provision. The conference report is the same as the Senate bill, establishing rules to govern the calculation of net profits.

The Senate bill contains detailed provisions as to the procedures for a work commitment bid. The House amendment does not. The conference report adopts the provisions of the Senate bill on work commitment bidding with an amendment, specifying that 50 percent of all exploration expenditures shall be included in satisfaction of the work commitment.

The conferees adopted the so-called work commitment bidding system as an alternative system. To insure that such system would lead to efficient and expeditious activities, detailed provisions for such a bidding alternative are included. The lessee is to bid an amount equal to the amount to be expended on exploration activities and, if awarded a lease on that amount, deliver either a cash deposit or bond for the amount. This is a fixed amount.

One-half of exploration costs incurred by the lessee are to be credited against the deposit or bond, which can be periodically reduced. Any amounts remaining after completion of exploration or the lease term shall be paid in cash to the Secretary.

To insure that unnecessary work is not performed, two safeguards are included. First, the Secretary retains the authority to monitor exploration activities, including approving, modifying, or disapproving exploration plans. Second, the lessee must put up 50 percent

of his own funds, as work continues, as a match to the credit against his work commitment bid. That is, for every dollar spent on exploration, the lessee's cash deposit or bond principal would be reduced by one-half dollar, rather than a full dollar. This would assure the element of risk. If an operator is awarded a lease based on a dollar-figure work commitment bid, he would have to spend twice the bid amount on exploration to satisfy the commitment. Half the amount he spent on exploration would come from his own account, and would not be "house money."

Regarding work commitment bidding and other bidding systems, the Secretary of the Interior is to establish lease terms in accordance with applicable regulations promulgated by the Secretary of Energy (see secs. 302(b)(1)–(4) and 302(c) of the DOE Act).

Lease terms

The House amendment provides for a lease term of 10 years where the Secretary finds that such longer period is necessary in areas "because of unusually deep water or other unusually adverse conditions." The Senate bill provides for a 10-year lease term "in areas of unusually deep water or unusually adverse weather conditions." The conference report is the same as the House amendment.

Both the Senate bill and House amendment, and thus the conference report, provide that the Secretary of Interior is to include in leases a requirement that the lessee offer 20 percent of "crude oil, condensate, and natural gas liquids" produced on a lease to "small refiners" or "independent refiners" as defined in the Emergency Petroleum Allocation Act of 1973.

The conferees note that this provision refers to the definition of "small refiners" or "independent refiners" in the Emergency Petroleum Allocation Act of 1973, Public Law 93–159, as found in paragraphs (3) and (4) of section 3 of that act. The reference in this section of the conference report is to those definitions only and not to the scope nor the application of the 1973 Emergency Petroleum Allocation Act of 1973.

Lease terms pursuant to subsection 8(b) are to be set by the Secretary of the Interior. However, such terms must be consistent with applicable regulations of the Secretary of Energy, for example, as to competition, diligence, and production rates. (See DOE Act, sec. 302(b)).

Lease sale competition review

The House amendment and the Senate bill contain different provisions for a lease sale competition review. The Senate bill provides for a review by the Federal Trade Commission and provides that unless fitting into certain exceptions, there has to be a public hearing whenever there is a finding of "a situation inconsistent with the antitrust laws," and the Secretary nevertheless proposes to issue the lease, despite the finding. The House amendment provides for review by the Attorney General and the Federal Trade Commission. The House amendment does not provide for the automatic requirement of a public hearing or findings. The conference report in subsection 8(c) adopts the House provisions on lease sale competition reviews with several changes.

In subsection 8(c), responsibility for the review of the competitive effects of a lease sale is given to the Attorney General. However, the Attorney General is to consult with the Federal Trade Commission in making any review, in securing information and in making recommendations. It is the responsibility of the Secretary of the Interior to provide such information as may be required to conduct any competition review. To avoid delays, and to expedite the review process, it is also anticipated that the Secretary will provide all necessary information (as requested by the Attorney General in consultation with the Federal Trade Commission) simultaneously to the Attorney General and the Federal Trade Commission.

The conferees did not accept a provision in the House amendment that would have specifically made a lease sale review an "antitrust investigation" within the meaning of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.). The conferees believe that a lease sale competitive review is a distinct type of review and not an "investigation."

It should be noted that section 11 of the Energy Supply and Environmental Coordination Act of 1974 authorizes the Department of Energy to obtain "energy information." Of course, information for a review under this subsection may also be obtained by the Secretary of Energy and forwarded to the Attorney General and the Federal Trade Commission pursuant to section 11 of the Energy Supply Act. In addition, the Federal Trade Commission has the independent authority under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to secure necessary records and information and to use this data in its consultations with the Attorney General (see 15 U.S.C. 46, 49). The conferees intend that the Federal Trade Commission is to retain its full authority to obtain records and information and is to retain its full authority to exercise this power in appropriate circumstances, including utilization of this power to adequately consult with, and give recommendations to, the Attorney General. Because information gathering under such authority may be time consuming, the conferees expect both the Department of Interior and the Department of Energy to expedite lease sale reviews by forwarding to the Attorney General and the Federal Trade Commission any information which the Attorney General, after consultation with the FTC, may request.

The conferees do not intend to affect the limitations, under present law and this act, on the release of proprietary or confidential information gathered from a company pursuant to the procedures established for a competition review under this subsection.

The Attorney General is given the discretion to make a review of a lease sale or sales and to make recommendations as to whether such sale or sales indicate a situation "inconsistent with the antitrust laws". The Attorney General is not required to make a review of any or all sales or to make any recommendations as to any or all sales. His decision to undertake or not undertake a review, and to make or not make any recommendations must be after consultation with the Federal Trade Commission.

It is anticipated that any report of the Attorney General will include a section containing the results of his consultation with the Federal Trade Commission, including any specific recommendations and comments submitted by the Federal Trade Commission. In the

interest of maximizing the time the Secretary will have to review antitrust comments and recommendations, the FTC may submit a copy of its comments and recommendations directly to the Secretary.

While the procedures under this subsection, including decisions to review or not review, the actual review itself, and the recommendations to the Secretary are to be undertaken by the Attorney General after consultation with the Federal Trade Commission, the conferees did not, in any way, intend to affect any existing power and authority to conduct investigations and reviews and to make recommendations. Specifically, the Federal Trade Commission Act, 15 U.S.C. 45, authorizes the Federal Trade Commission to conduct proceedings on unfair methods of competition; 15 U.S.C. 46, authorizes the Commission to "gather and compile information", to "investigate" businesses and to make reports on this information and the investigations, including any recommendations, to the President, Congress, and the public. Nothing in this subsection is intended to limit this authority.

As with all other recommendations to be made by the Attorney General, the conferees believe that such recommendations should be made as promptly as possible. To insure this, the conferees expect the Secretary of Interior to forward any requested information to the Attorney General and the FTC as soon as possible. In addition, to allow thorough and adequate consideration of a recommendation, any recommendation should set forth the reasons for any recommendation, including the pertinent factual and policy considerations, and legal precedents, if any. No independent cause of action, however, is created by this mandate for reasons to be given. The failure to give adequate reasons or supporting facts or to give any reasons or facts, or to make any review or give any recommendations, is not an independent basis for a legal challenge to any lease sale or lease award.

The Secretary of Interior is free to accept or reject any recommendation. He may accept a bid and award a lease despite any recommendations from the Attorney General, so long as he notifies the lessee and the Attorney General of the reasons for his decision. He may, of course, accept the recommendations and refuse to accept an otherwise qualified bid and not award a lease. There is no requirement of a hearing prior to this decision of the Secretary. In addition the failure of the Secretary to accept a recommendation is not a basis for an independent cause of action against a sale or lease award.

The decision of the Attorney General to conduct or not conduct a review, to make or not make a recommendation, and the decision of the Secretary to accept or not accept a recommendation, as already noted, is not to be a basis for an independent cause of action. In addition, under section 8(f) of this act, nothing in this subsection, or anywhere else in the act is to create a defense or to grant immunity from any criminal or civil action for violation of antitrust laws.

Specifically, the conferees intend that the failure of the Attorney General to undertake a review, or to make recommendations, or the failure of the Secretary to accept any recommendation, while it may be introduced in proceedings as relevant evidence, is not to be a bar to any government or private antitrust action.

The conferees, as noted earlier, do not intend to abridge any existing authority of any agency or department to collect data, make

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investigations, solicit or give comments, or institute and undertake judicial actions.

The conferees do not intend to abridge any existing right of the Government or a private party to bring a cause of action. However, as noted above, the failure of the Attorney General or the Secretary to act in accordance with this subsection does not create any independent cause of action.

Diligence

The House amendment provides that no lease may be issued if the Secretary finds that the bidder is not meeting due diligence requirements on other leases. The Senate bill provides that no application for a lease may be submitted if the Secretary finds, after notice and hearing, that the applicant is not meeting due diligence requirements on other leases. The conference report adopts the language of the Senate bill in subsection 8(d) with a technical amendment substituting "bid" and "bidder" in lieu of "application" and "applicant," respectively. Determinations as to diligence on other leases are to be made prior to lease sale and companies are to be informed prior to such sale if they are disqualified by this provision from bidding on this sale. Such a determination may be appropriately made through a list of ineligible companies—which can be revised periodically. Such a procedure has been utilized in applying present joint bidding bans.

This subsection is to be carried out by the Secretary of the Interior.

Sale or exchange of leases

The House amendment provides that no lease may be sold, exchanged, assigned or transferred except with the approval of, and subject to renegotiation by, the Secretary, after consultation with the Attorney General and the Federal Trade Commission. The Senate bill contains no comparable provision. The Senate receded and the conference report in subsection 8(e) adopts the language of the House amendment with an amendment, striking "and subject to renegotiation" and "and the Federal Trade Commission."

The intent of this provision is to codify existing practice, authorized by the 1953 act, and add Attorney General input on the competitive impacts of a sale, exchange, assignment or other transfer of a lease. The Secretary shall retain his power to approve or disapprove a sale, transfer, assignment or exchange. Prior to approving or disapproving, he is to consult with an consider the views of the Attorney General.

Federal-State agreements

Provisions in both versions of S. 9 similarly authorize Federal/State agreements as to areas within 3 miles of the seaward boundary of any coastal State but contain minor grammatical and structure differences. The conference report resolves those differences while maintaining the intent of both versions.

The House amendment provides that the Secretary shall "deposit" in a separate account in the Treasury of the United States certain revenues. The Senate bill provides that the Secretary shall "impound" in whole or in part, in a separate account in the Federal Treasury, revenues. The conference report adopts the House language.

The House amendment provides that nothing in this section is to limit or modify the rights of any State to jurisdiction or title to

submerged lands. The Senate bill contains no comparable provision. The conference report adopts the House language.

Joint bidding ban

The House amendment provides that the Secretary may permit joint bids unless more than one of the bidders is chargeable with an average daily production of 1,600,000 barrels a day or more. The Senate bill does not include an amendment to the OCS Act, but amends the Energy Policy and Conservation Act of 1975, to allow joint bids involving bidders having an average daily worldwide volume of 1,600,000 barrels or more, when "it is determined that exploration and development will occur only if the exemption is granted," for areas "determined to be extremely high risk lands or to present unusually high cost exploration or development problems." The House amendment contains no such exemption. The House receded and the conference report adopts the Senate provision with an amendment.

The conference report amends subsection (c) of section 105 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213 (c)).

With a limited exception, there is a ban on joint bidding by two "majors" pursuant to appropriate regulations, where more than one of bidders controls average daily worldwide production of 1.6 million barrels a day. The Secretary may, but does not have to, exempt a bidder or bidders from the ban in the bidding for leases anywhere involving high cost exploration or development problems.

No such exemption may be granted unless there is a finding, after an opportunity for a hearing, that exploration and development will only occur if such exemption is granted. Such a finding is nonreviewable, unless arbitrary or capricious. An exemption can only be granted if requested by a potential bidder and the potential bidder has the burden of coming forward with factual evidence to support his request. A finding that exploration and development will only occur if there is an exemption must be based on demonstrated evidence. Such evidence supporting the Secretary's determination includes, but is not limited to, an economic analysis demonstrating the need for such an exemption; a financial statement of potential joint bidders demonstrating their inability to bid without such an exemption; the number of nominations for tracts or lease areas to be exempted; prior experience in bidding and lease awards in the lease area or in lease areas with similar problems; and geological, environmental or safety information detailing special, unique or increased costs.

Section 206—Outer Continental Shelf oil and gas exploration

Section 206 amends section 11 of the OCS Act, providing the procedures for exploration of areas on the Outer Continental Shelf.

Authority

The Outer Continental Shelf Lands Act of 1953 provides:

> SEC. 11. GEOLOGICAL AND GEOGRAPHICAL EXPLORATIONS.—Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the Outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area.

The Senate bill provides in subsection 11(a)(1) that "the Secretary or any agency of the United States, and any person" authorized can conduct explorations. The House amendment only provides that "any person" authorized can conduct explorations. The conferees decided not to adopt either version's language, but rather to retain the exact language of section 11 of the 1953 OCS Act, regarding exploration authorization. Thus, section 206 does not modify, in any way, the existing language of section 11.

The conferees' action does not indicate any particular interpretation of existing law. Accordingly, the conferees intend to keep in effect and neither limit nor extend whatever authority the Secretary of the Interior and other Government agencies have under existing law.

Exploration plans—Application

The House amendment provides that 90 days after enactment of this subsection, exploration has to be pursuant to the requirements of this new exploration section, with an exception provided for leases where a drilling permit had been issued prior to the date of enactment. For exploration on leases included in this exception, the House amendment provided that the Secretary is authorized to require such activities to be described in an exploration plan, to require a revised exploration plan, to require a general statement of onshore intentions, and to require the submission of additional information or to establish additional requirements on leases in accordance with his general regulatory authority.

The Senate bill contains comparable exemptions. Specifically, the Senate bill exempts from the requirement of compliance with this new section and any regulations promulgated pursuant to this section, those leases in which a drilling permit had been issued prior to the enactment. In a later subsection, the Senate bill allows the Secretary to approve the exploration plan submitted prior to enactment, which he finds is in substantial compliance with the provisions of this new section and to require the submission of additional information.

The conference report requires compliance with the new provision of section 11 on exploration, except that exploration activities pursuant to any lease for which a drilling permit has been issued or for which an exploration plan has been approved prior to ninety days after the date of enactment, shall be considered in compliance with section 11. The conference report does retain the language of both versions that the Secretary may require the submission of information by a lessee for exploration activities otherwise exempted from new requirements of section 11 and provides that the Secretary retains the authority granted in section 5(a)(1)(B) to order a suspension or temporary prohibition of any exploration activities, and then to require a revised exploration plan to be submitted.

The specific requirements of new section 11, dealing with the submission, contents and review of exploration plans are therefore ordinarily not to apply to exploration activities pursuant to a lease for which a drilling permit has been issued or an exploration plan approved prior to ninety days after the date of enactment of the 1978 amendments. Exploration activities which are excluded by this sub-

section are to be conducted in accordance with existing law and regulations and the terms of any existing permit or plan.

Exploration plans

Both versions of S. 9 and therefore the conference report require exploration plans to be submitted and reviewed by the Secretary of Interior. Both the House amendment and Senate bill provide for revisions of plans. The intent of both versions is clarified by making it explicit that only "significant revisions" need go through that approval process. In subsection (c)(1), the Conferees adopted an amendment to insure that exploration plans are consistent with regulations prescribed by the Secretary pursuant to paragraph (8) of section (5)(a) of this act, relating to air quality standards where States are significantly affected by OCS activities (see discussion on section 5(a)(8), supra).

There are grammatical and technical differences between the House amendment and the Senate bill as to the process and effect of approval, modification and disapproval. These were resolved in the conference report. In addition, the House amendment provides for the possibility of cancellation after a period of suspension, in appropriate circumstances, if an exploration plan cannot be approved, and also provides for compensation after cancellation. Under the Senate bill, when a lessee is eligible for such cancellation, the Secretary may only "delay" approval of the exploration plan. The conference report is the same as the House amendment.

The House amendment provides for a requirement of consistency of any license or permit for any activity in an exploration plan with an approved State coastal zone management program. The Senate bill contains no comparable provision. The Senate receded and the conference report includes the House provision.

Drilling

The House amendment provides in section 11(g) for the authorization of permits for qualified applicants to conduct "on-structure" exploration. The House amendment requires the offering of such permits at least once during the next two-year period. The Senate bill contains no comparable provision, but does provide in a separate section for a prelease drilling program which may include such on-structure permits (see discussion in section 26, infra). The House receded and the conference report contains no such provision. The conferees' action does not indicate any intention to limit, modify, or expand whatever authority the Government has under existing law to grant permits to applicants to conduct drilling operations.

The House amendment in subsection (h) provides for standards and regulations for permits for geological explorations. The Senate bill contains no specific language as to such permits or regulations. The conferees adopted the House provision.

Wilderness—Point Reyes

The House amendment provides for the exclusion from any leasing or exploratory drilling of any tract within fifteen miles of a wilderness area. This provision was adopted on the House floor and was

intended to apply to only one area in California. The Senate bill contains no comparable provision. The conference report follows the House provision with an amendment, specifying that the exclusion is to apply only to one area in California—Point Reyes.

Point Reyes National Seashore is located 30 miles north and west of San Francisco, Calif. This seashore contains beaches, mountains, and numerous species of flora and fauna. A portion of the seashore has been designated by Congress as part of the National Wilderness Prevention System. It is presently administered by the National Park Service, with oversight by a special panel appointed by the Secretary of the Interior.

The conferees determined that because of the unique recreational, ecological and other qualities of this area, exploration and leasing within 15 miles of Point Reyes should be prohibited.

There are State waters abutting the Point Reyes National Seashore. To avoid the possibility of inconsistent activities, if California authorizes mineral activity in its waters, the exclusion is automatically withdrawn and there is no further bar to Federal OCS activities.

Finally, adoption of this provision is not intended as a precedent as to whether or not similar protection is to be afforded to other present or future wilderness areas.

Reservation by the Congress

The House amendment contains a section 208 which provides that the Congress can withdraw areas from OCS leasing by passing a concurrent resolution so declaring. The Senate bill contains no such provision. The House receded and the conference report contains no such provision.

Section 208—Annual report

Section 208 amends section 15 of the Outer Continental Shelf Lands Act to require the Secretary of the Interior to submit an annual report in two parts within 6 months of the end of each fiscal year. The required contents of the report are specified in the subsection and the intent of the language is clear.

One part of the report is to include recommendations and findings as to competition and is to be made after consultation with the Attorney General. The Attorney General may, but need not, submit findings or recommendations, which are to be included in the report of the Secretary of Interior submitted to Congress. The Secretary of Interior is to prepare his report on competition, the second part of his annual report, after consultation with the Secretary of Energy and the Federal Energy Regulatory Commission, and is to receive their written comments within their respective applicable responsibilities. Any comments not accepted by the Secretary of Interior are to be separately included in the report.

The House amendment provides for the competition portion of the annual report to contain an evaluation and description of measures "to insure an adequate supply of oil and gas to" independent refiners and distributors. The Senate bill provides for an evaluation and description of additional measures "to increase the supply of" oil and gas to independent refiners and distributors. The conference report adopts the new phrase "dealing with supplies" of oil and gas to independent refiners and distributors.

SECTION 209—NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

Section 18—Outer Continental Shelf leasing program

Section 18 establishes a process which will permit the Secretary of the Interior to weigh energy potential, and other benefits against environmental and other risks in determining how, when and where oil and gas should be made available from the various Outer Continental Shelf areas to meet national energy needs.

Considerations

The House amendment provides that a leasing program "shall consist of a schedule of proposed sales indicating" the size, timing, and location of activities. The Senate bill provides that the leasing program is to indicate the size, timing, and location and does not specifically provide for it to consist of a "schedule of proposed lease sales." The conference report is the same as the House amendment.

The House amendment includes among the considerations for a leasing program, the sufficiency of resources including equipment and capital to assure exploitation expeditiously. The Senate bill contains no comparable provision. The House receded and the conference report contains no such provision.

The House amendment includes among the considerations for a leasing program, the relative environmental sensitivity and marine productivity of different areas. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment includes among the consideration for a leasing program the policies and plans under the Coastal Zone Management Act. The Senate bill contains no comparable provision. The conference report follows the House amendment and contains no such specific provision as it is included within the consideration of "laws, goals, and policies of affected States."

Both versions contain as a consideration of a leasing program, the receipt of value for lands. The House amendment provides that activities are to be conducted to assure receipt of "fair value for the lands leased and the rights conveyed by the Federal Government." The Senate bill provides for leasing activities to be conducted to assure receiipt of "fair market value for the oil and gas owned by the Federal Government." The conference report follows the House amendment, with the addition of the term "market" so as to read "fair market value for the lands leased and the rights conveyed by the Federal Government."

Preparation of proposed leasing program

The House amendment provides for a report by the Attorney General and the Federal Trade Commission as to competition aspects of the leasing program during the preparation of any proposed leasing program. The Senate bill contains no comparable provision.

The conference report adopts the Senate language and deletes this provision. However, the conference report does specifically include the Attorney General in consultation with the Federal Trade Commission, as a party to be given input into the preparation of a program.

As just noted, both versions contain provisions for input from appropriate parties during the preparation of a leasing program. The

House amendment specifically provides that the Secretary is to include suggestions "from any interested Federal agency" and "from the executive of any affected local government unit in such an affected State." The Senate bill contains no such specific language. The conference report follows the House amendment with an amendment, providing that the Secretary may solicit and consider suggestions on a proposed leasing program from the head of any local government unit affected by OCS activities, after such recommendations have been submitted to the Governor of the affected State, and also providing that the Secretary may solicit and consider suggestions from any interested Federal agency, including the Attorney General in consultation with the Federal Trade Commission.

The Governor is given discretion to identify—and then solicit and consider the suggestions of—affected local government units. Local governments can, of course, request information from the Governor or Secretary as to OCS leasing activities. Governors must be notified by the executives of any such affected local government units so as to be able to consider their inclusion in his recommendations.

The conferees intend that local governments are generally to act through their State government representatives; and that recommendations are to be forwarded to and by local governments through State governments. In addition, there is to be no independent basis for legal action by a local government unit against activities under this act, or actions pursuant to this act, because of a dispute with a State government as to whether they are "affected" or any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

The House amendment further provides that the Governors of affected States are to solicit comments from the executives of local governments units in his State affected by OCS activities, after the actual proposed program is submitted to them. The Senate bill contains no such specific requirement. The conference report follows the House amendment with an amendment, emphasizing that is up to the discretion of the Governors to solicit comments from representatives of those local governments which the Governors determine will be affected. No responsibility is placed on the Federal Government.

Again, the managers intend that local governments are to act through their State government representatives; and that data and recommendations are to be forwarded to and by local governments through State governments.

There is to be no independent basis for legal action by a local government unit against activities under this act, or actions pursuant to this act, because of a dispute with a State government as to whether they are "affected" or any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

Both versions provide for the submission of a proposed leasing program to appropriate parties. The House amendment provides specifically for submission to the Federal Trade Commission, and through Governors, to local government executives. The Senate bill contains no such specific requirements for submission to these two parties. The conference report follows the Senate bill with respect to the Federal Trade Commission, and does not mention the FTC, and the House amend-

ment with respect to the inclusion of local government executives with an amendment providing that the Governor shall submit a copy of the proposed leasing program to the executive of any affected local government unit but only upon request.

The Governors are to submit the proposed leasing program upon request to heads of affected local governments. No responsibility is placed on the Federal Government by the inclusion of the reference to local governments. There is to be no independent basis for legal action by the executives of an affected local government unit against activities under this act, or actions pursuant to this act, because of any alleged failure of a State government to submit a proposed leasing program to such local government.

Comments on leasing program

Subsection (d)(1) provides that the Attorney General may submit comments on a final proposed leasing program but no later than 90 days after the publication of such a program. He is to submit comments after consultation with the Federal Trade Commission.

No independent cause of action is created by this provision. Therefore, the failure of the Attorney General to submit a report, or the insufficiency of the reasons given for his views and recommendations, are not to be an independent basis for a law suit.

The conferees do not intend to abridge existing authority of any agency or department, including the Federal Trade Commission, to solicit information or give comments.

CZMA

Both versions provide for regulations as to coastal zone management applicability. The House amendment provides for regulations involving "consideration" of a program "being developed or administered" pursuant to section 305 or 306, respectively, of the Coastal Zone Act. The Senate bill provides for "coordination" of the program with the management program being developed and also for "consistency" to the extent practicable with the management program. The conference report is the same as the House amendment. The Secretary is to establish procedures by regulation for consideration of State coastal zone management programs.

Data

Both versions provide for the obtaining by the Secretary of Interior of relevant data. The House amendment specifically provides that classified data is to remain confidential for such a period of time as agreed to by the head of a department or agency from whom the information is requested. The Senate bill contains no such comparable language. The conference report is the same as the House amendment. In addition, the House amendment provides for the confidentiality of "all privileged data." The Senate bill provides for the confidentiality of all "proprietary" data. The conference report refers to both "privileged or proprietary data."

This subsection deals with the authority and responsibility of the Secretary of the Interior to collect data and keep it confidential. This subsection does not affect the independent authority of the Secretary of Energy and the Federal Energy Regulatory Commission, under the

DOE Act, and other statutes, including section 11 of the Energy Supply and Environmental Coordination Act of 1974, to collect, obtain, classify, and release information.

Both versions provide for the forwarding of nonprivileged information by other Federal departments and agencies. The House amendment provides that such agencies are to provide the Secretary with "nonprivileged information." The Senate bill provides for the forwarding of any "nonproprietary information." The House amendment also authorizes other Federal departments and agencies to provide the Secretary with privileged information. The Senate bill does not specifically provide such an authorization. Furthermore, the House amendment provides that such privileged information given to the Secretary is to remain confidential for such period of time as agreed to by the department or agency. The conference report with minor technical changes follows the House amendment, authorizing other Federal departments and agencies to provide the Secretary with privileged information, which is to remain confidential for the agreed period of time.

This subsection deals with the authority and responsibility of the Secretary of Interior to collect data and keep it confidential. The subsection does not affect the independent authority of the Secretary of Energy and the FERC, under other statutes, to collect, obtain, and lease information.

Revisions

Both the Senate bill and House amendment authorize revision and reapproval of a leasing program. Minor revisions need not go through the detailed procedures. Significant revisions—affecting the substance of a program—must go through the same procedures established for the original development of the program.

Section 19—Coordination and consultation with affected States and governments

This section is intended to insure that Governors of affected States, and local government executives within such States, have a leading role in OCS decisions and particularly as to potential lease sales and development and production plans. In addition, it is intended to provide a mechanism for involvement of Governors and local government officials.

The House amendment titles section 19 "Coordination and Consultation with Affected States and Local Governments." The Senate bill titles section 19 as "Coordination with Affected States and Local Governments." The conference report is the same as the House amendment.

Both versions allow, but do not require, Governors of affected States to submit recommendations regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan. The House amendment, in addition, allows the submission of recommendations by "the executive of any affected local government in such State." The conference report follows the House amendment, providing for the submission of recommendations by the heads of local government units to the Secretary, after those recommendations have been forwarded to the Governor.

The House amendment provides for the submission of recommendations within 90 days after receipt of a development and production plan. The Senate bill provides for submission of recommendations within 60 days of the receipt of a development and production plan. The conference report is the same as the Senate bill—60 days.

Both versions provide procedures for the acceptance by the Secretary of Interior of the recommendations of Governors. In addition, the House amendment provides procedures for the acceptance of the recommendations of the executive of any local government units. In the conference report, the submission of recommendations to the Secretary and the acceptance of recommendations by the Secretary is made discretionary as to executives of local governments, and only allowable after the submission of the recommendations to the Governors.

Both versions and the conference report require acceptance of a Governor's recommendation if the Secretary of the Interior determines that the recommendations providea reasonable balance between the national interest and the well-being of citizens of the affected State.

The Secretary shall communicate the reasons for accepting or rejecting the recommendations of the Governors in writing to them.

The Conferees intend that local governments are generally to act through their State government representatives; and that data and recommendations are to be forwarded to and by local governments through State Governments. In addition, there is to be no independent basis for legal action by a local government unit against activities under this act, or actions pursuant to this act, because of an alleged failure to consult with, submit data to, or receive the recommendations of a local government.

Both versions provide for cooperative agreements by the Secretary of Interior with affected States for the sharing of information and other purposes, making it explicit that such cooperative agreements are to be consistent with the confidentiality, waiver of immunity, and liability responsibilities of section 26 (see discussion, on Section 26). The House amendment specifically provides that the sharing of information should be "(in accordance with the provisions of section 26 of this act)." The Senate bill contains no such specific limitation. On this point the conference report is the same as the House amendment.

Section 20—Environmental studies

Section 20 provides a mechanism by which information concerning the environment in an area leased or to be leased and then developed is to be analyzed and then used as a basis to monitor effects.

The House amendment titles this section "Environmental Studies." The Senate bill titles this "Baseline and Monitoring Studies." The conference report is the same as the House amendment.

The House amendment provides for studies to establish "information needed for the assessment and management of environmental impacts on" the environment. The Senate bill provides for studies in order to establish "baseline information concerning the status of" the environment. The Senate receded and the conference report is the same as the House amendment.

Both versions provide for required studies within certain limits of time for new leases and existing leases. The House amendment pro-

vides for a study to be commenced not later than 6 months after enactment with respect to any area or region where a lease sale has been held "or announced by publication of a notice of a proposed lease sale." The Senate bill does not refer to the announcement by publication of a notice of a proposed sale in regard to the initiation of such studies. The conference report adopts the House language.

The House amendment provides the commencement for a study 6 months prior to a lease sale for areas where no lease sale has been held "or scheduled." The Senate bill does not make reference to lease sales scheduled. The Senate recedes and the conference report is the same as the House amendment.

The House amendment refers to "environmental information" in predictive studies. The Senate bill refers to "baseline information" as part of the predictive studies. The Senate receded and the conference report is the same as the House amendment.

The House amendment provides that the Secretary is to consider relevant environmental information in making appropriate decisions and developing regulations and conditions. The Senate bill contains no comparable provision. The Senate receded and the conference report is the same as the House amendment.

Both versions provide for utilization of the Department of Commerce to the maximum extent practicable. The House amendment provides that the "Secretary shall, to the maximum extent practicable, enter" into appropriate arrangements. The Senate bill provides that "the Secretary is authorized and directed, to the maximum extent practicable, to enter" into appropriate arrangements. The Senate receded and the conference report is the same as the House amendment.

Section 21—Safety regulations

Section 21 establishes procedures for study, review, coordination, and if necessary, revision of safety regulations in light of the policy of the 1978 amendments for safe operations on the Outer Continental Shelf.

Both versions provide in subsection 21(a) for a study of existing safety regulations by the Department of the Interior and the Coast Guard, in consultation with other appropriate Federal officials, but use different language. In addition, the Senate bill mandates participation by the Secretary of Labor in the study, while the House amendment allows such participation as Labor would be a Federal department or agency to be consulted, when appropriate. The conference report follows the House amendment and does not explicitly list the Secretary of Labor.

It is expected that in undertaking this study, the Secretary of the Interior and the Secretary of the Department in which the Coast Guard is operating will consult with the Department of Labor, and specifically the Occupational Safety and Health Administration, and other agencies having expertise in the areas of safety and health, oil and gas development and production, and environmental protection.

In addition, the conference report provides, as a conforming and technical change to include "health" regulations in the study. Since the President is required under both versions and the conference report to submit, after receipt of this study, a plan to Congress of his

proposals to promote safety and health, it is both appropriate and necessary that the study include "health" considerations as well.

The House amendment requires use of best available and safest "technologies", as described, for all new drilling and production operations and wherever practicable on existing operations. The Senate bill similarly provides for use of the best available and safest "technology". The conference report is the same as the House amendment, in order to emphasize that more than one technology may be applicable as the best way to achieve a particular objective or do a particular job.

In addition, the House amendment provides for such technology which the Secretary determines to be economically "feasible". The Senate bill provides for use of such technology which the Secretary determines to be economically "achievable". The conference report is the same as the House provision.

There are structural differences between the House and Senate versions as to use of technology. Both versions provide for use of such new technology or technologies on existing operations "wherever practicable". Both versions also provide for a determination by the Secretary as to the incremental benefits against the incremental costs, but use slightly different language to do so. The conference report is the same as the House amendment. It is, of course, the responsibility of an operator on an existing operation to demonstrate why application of a new technology would not be "practicable".

The conferees expect, to assure uniformity of requirements for industry compliance, that a determination as to what are the best available and safest technologies economically feasible is to be made by the regulating agency on an industry-wide basis or with respect to classes or categories of operations, rather than on an installation-by-installation, company-by-company, or lessee-by-lessee basis. In addition, the language provides for economical feasibility to be a balance of costs against benefits

Best available and safest technologies (BAST) is required when "significant" effects are involved and can only be then waived when incremental benefits "are clearly insufficient" to justify increased costs. Ordinarily, again to assure uniformity of requirements, considerations of costs and benefits should also be done by the regulating agency on an industry-wide basis or with respect to classes or categories of operations, rather than on a company-by-company, installation-by-installation, or lessee-by-lessee basis. Responsibilities for safety are presently shared by Interior, Coast Guard, and other agencies. It is expected that the appropriate agency will make this cost/benefit analysis in exercising their respective responsibilities.

It is expected that in promulgating regulations and in administering the program, the Secretary and the Department in which the Coast Guard is operating will consult and cooperate with OSHA and other federal agencies having expertise in the areas of safety and health, oil and gas production, and the environment.

The House amendment provides in section 21(c) for the Coast Guard to promulgate regulations or standards as to diving activities and other unregulated hazardous working conditions. The Senate bill provides for the coast Guard, working with the Secretary of Labor, to promulgate the regulations for diving standards. The Senate bill

provides that, notwithstanding the Occupational Safety and Health Act, both Labor and Coast Guard are to promulgate and enforce these regulations jointly and in a coordinated manner. The House amendment has no such language. The conference report follows the House intent and requires regulations as to unregulated hazardous working conditions in the OCS only by the Coast Guard. As regulations and standards on diving activities have already been proposed by the Coast Guard, they are no longer specifically enumerated. Regulations on workers' safety shall be promulgated, and can be modified, by the Secretary of the Department in which the Coast Guard is operating.

Both versions provide that existing authority of agencies is not to be affected by this section, although the Senate provides that the existing authority of the Secretary of Labor is to be expanded to cover diving practices in all circumstances. The conference report deletes this reference and specifies that the existing authority under law of the Secretary of Labor, (as to occupational safety and health), the Administrator of the Environmental Protection Agency (as to protection of the environment) and of the Secretary of Transportation (as to pipeline safety) is not affected by this act.

In adopting the language providing for OCS workers' safety regulations to be promulgated by the Coast Guard, and also providing for the existing authority of the Secretary of Labor (through the Occupational Safety and Health Administration) as to workers' safety to be retained, the Conferees clearly intend neither to reduce, nor to add to existing OSHA authority, under section 466(1) of the Occupational Safety and Health Act.

This section merely requires the Coast Guard to undertake expedited action where it deems it necessary to regulate hazards currently unregulated by the Government. Under its existing authority, and section 4(b)(1) of the Occupational Safety and Health Act, the Coast Guard may take any appropriate action necessary to regulate any hazard, and may over time displace the applicability of OSHA standards to other working conditions through exercise of appropriate rulemaking actions. However, the conferees intend that consultation with OSHA in standards development and administration, and opportunity for participation by interested parties in any such Coast Guard action, will assure that employees receive no less protection than under existing standards. Consistent goals contained in recent OSHA-Coast Guard agreements—maximizing the safety and health protection of employees, avoiding duplication of effort, and avoiding undue burden on the maritime industry—are also endorsed by the conferees.

The Senate bill provides for the Secretary of Commerce, working with the Coast Guard and the National Institute of Occupational Safety and Health, to conduct studies of underwater diving techniques and equipment. The House amendment contains no comparable provision. The House receded and the conference report adopts the Senate provision for such a study.

The House amendment provides specifically that the Secretary of the Interior is to consult and coordinate with appropriate agencies to avoid inconsistent or duplicative requirements. The Senate bill contains no comparable provision. The conference report follows the House amendment.

The House amendment provides that the Secretary is to make available a compilation of safety and other regulations applicable to OCS activities by any and all Federal departments or agencies. The Senate bill contains no comparable provision. The conference report follows the House amendment.

Section 22—Enforcement

This section is to provide mechanisms and procedures for the enforcement of safety and environmental regulations issued pursuant to the provisions of the act. Failure to comply with any provision of the act, any implementing regulation, or the terms of a lease or permit included because of the act or regulations, would subject the violators to civil or criminal penalties under Section 24 of the 1978 amendments.

The Senate bill provides for the Secretary of the Interior and Secretary of Department of Coast Guard to consult with each other regarding the enforcement of regulations. The House amendment specifies that "applicable Federal officials" shall enforce regulations. The conference report adopts the Senate language but adds the Secretary of the Army.

Regulatory responsibility is delegated in other sections of the Act, as well as is the power to implement and enforce such regulations. In many circumstances, it is the responsibility of Interior, in others, Coast Guard, in others, the Army, and in others, the Department of Transportation.

Nothing in this section, or any other section in the bill is intended to affect the authority of other agencies or departments to exercise enforcement powers and impose duties under other laws. In addition, the conferees expect that, as with regulatory authority, enforcement authority be executed by applicable Federal officials in a cooperative manner with other Federal agencies having expertise in that area. Thus, for example, it is expected that in exercising his enforcement authority, the Secretary of the Department in which the Coast Guard is operating will consult and cooperate with OSHA and other Federal agencies having expertise in the areas of safety and health, oil and gas production, and environmental protection.

The House amendment provides for certain duties of a holder of a lease or a permit to maintain places of employment in accordance with safety and health standards and free from recognized hazards to employees, and to maintain operations in compliance with all other regulations. The Senate bill contains no comparable provision. The conference report follows the House amendment. Of course, this section does not relieve any contractor or subcontractor from other obligations under the law.

The House amendment provides that a lessee or permittee is to allow prompt access to any inspector and to provide such documents or records as are pertinent. The Senate bill provides authorization for the Secretary of Interior or the Coast Guard to enter without delay any part of a facility and to examine documents and records as are pertinent. The conference report follows the House amendment. Since prompt access and provision of records is a duty directly imposed by this provision, lease and permit holders should expect that inspectors will visit the site of any operation, with or without advance notice.

In addition, both versions mandate inspections. As to "surprise" inspections, the House amendment provides for such inspections with-

out advance notice at least once a year. The Senate bill has no such specific time requirement but does require periodic "surprise" inspections. The conference report follows the Senate bill.

Both versions provide in this section for investigations and reports on fires and major oil spills. The Senate bill defines major spillage in terms of "any discharge from a single source". The House amendment defines it in terms of "spillage in one instance". The conference report follows the House amendment.

In addition, the House amendment provides specifically that lessees or permittees are to cooperate with the investigation. No such specific language is included in the Senate bill. The conference report follows the House amendment.

The House amendment provides for investigations and public reports on any death or serious injury as a result of operations conducted pursuant to this act. The Senate bill contains no such comparable provision. The conference report follows the House amendment.

The House amendment provides that appropriate agencies are to consider allegations from any person as to the violation of safety regulations and to answer same. The Senate bill contains no comparable provision. The conference report provides that the agency "may review" rather than "shall consider" any allegation and does not require a report on each such allegation. The conferees were aware that the Coast Guard has broad authority and responsibility for safety and health under this Act and other maritime statutes and to review allegations of safety and health regulations and violations. The language of this section is not intended in any way to restrict the Coast Guard's ability to investigate violations or allegations of violations of any safety or health regulation.

Both House and Senate provisions provide for necessary power to agencies to conduct investigations. The House amendment is more specific than the Senate bill in that it includes specific references to process in the district courts of the United States, and the power to administer oaths. The conference report follows the House amendment.

The House amendment provides that the annual report shall include a report on safety violations and investigations. The Senate bill contains no comparable provision. The conference report follows the House amendment with a technical amendment substituting "any" in lieu of "the" in reference to "investigations undertaken" to make it clear that investigations of allegations are discretionary and not mandatory.

Section 23—Citizen suits, court jurisdiction, and judicial review

Section 23 details the procedures by which citizens, including lessees, or permittees, employees, local and State governmental officials, and others, can participate in the enforcement of the act. Review of certain types of actions are through administrative proceedings, followed by an appeal in a court of appeals. Review of other actions are by suits in a district court.

Clearly included in this section are local governments and local government officials. This is in addition to the responsibilities placed on the State Governors, throughout the conference report, to consult

with affected local government officials. As noted in this statement in various places, the responsibilities placed on the Governor to consult with, supply information to, and forward the recommendations of, local government officials are not to be an independent basis for a lawsuit against the Federal Government if the Governor should not adequately comply with the responsibilities. However, this limitation is not intended to restrict any right a local government or local government official may otherwise have under this section to commence a civil action.

The House amendment terms this section "Citizen Suits, Court Jurisdiction, and Judicial Review". The Senate bill terms this section "Citizen Suits". The conference substitute follows the House amendment.

Citizen suits

There are slight structural differences between the two versions on citizen suits. Both provisions in section 23(a) permit suits against any person, including government instrumentalities and the Secretary of Interior. The House amendment does not specifically state that suits are authorized against the Secretary for nondiscretionary duties or acts. The Senate receded and the conference substitute follows the more general and inclusive language of the House amendment.

The House amendment provides for control of the citizen suits and responses to be with the Attorney General. The Senate bill provides for such control to be by the Secretary of Interior, his authorized representative, or the Attorney General. The Senate receded, and the conference substitute follows the House amendment, as Section 23(a)(2).

The House amendment limits intervention by the Federal Government to the Attorney General, upon the request of the Secretary or other appropriate Federal officials. The Senate provides for intervention by the Secretary of Interior. The conference report follows the House amendment, and provides for intervention by the Federal Government only to the Attorney General.

Both the Senate bill and House amendment and thus the conference report provide that citizen suits cannot be commenced until after a 60-day notice period or if the Federal Government has commenced and is diligently prosecuting a comparable action. This 60-day delay period, however, may be waived if a plaintiff can show an imminent threat to the public health or safety or an immediate effect on the plaintiff's legal interest. This reference to imminent threat to the "public health or safety" relates only to those circumstances justifying an immediate citizen's suit. Thus, under this section, a plaintiff can only commence a suit if he has "a valid legal interest which is or may be adversely affected." Ordinarily, he must then give notice and wait 60 days before actually commencing litigation. However, if a citizen, with the requisite standing, can also show an imminent threat to the public health or safety, or an immediate effect on his legal interest, he may commence litigation immediately after notification, without waiting the 60-day period.

Exclusivity of suits

The House amendment and Senate bill have similar provisions as to the exclusivity of the citizen suit and other judicial procedures. The

House amendment provides that all suits challenging violations of the OCS Act or implementing regulations are to be in accordance with this new section. Rights under any other act or the common law to seek appropriate relief are not barred. The Senate bill provides that no rights under any statute or common law to seek enforcement of the act or any regulations or to seek any other relief are barred by this section. The conference report adopts the House language.

General jurisdiction

The House amendment provides for jurisdiction in the district courts (restating section 4(b) of the 1953 OCS law). The Senate bill merely refers to section 4(b) of the OCS law. The conference report follows the House amendment, as subsection 23(b).

The Senate bill specifically provides that any resident who is injured in any manner may only sue in the judicial district having jurisdiction under section 4(b). The House amendment makes no specific reference to suits for injuries. The conference report follows the Senate bill with a technical change, substituting 23(b) in lieu of 4(b).

Judicial review

Both versions provide for limitations of judicial review after administrative proceedings. The House amendment provides that specific objections are to be considered "only if issues upon which such objections are based" have been previously submitted. The Senate bill provides for consideration only if "such objections have been submitted" previously. The conference report follows the broader House amendment. The Senate bill provides that citizen suits and judicial review procedures are to take precedence on the docket over other causes of action. The House amendment contains no comparable provision. The conference report adopts the Senate language.

Compensation to plaintiffs—Court costs

Both the Senate bill and House amendment provide that a court may award costs of litigation, including reasonable attorney's fees and expert witness fees, to a party when the court determines such an award as appropriate. The conference report adopts the House language, authorizing such awards in citizen suits, and in administrative proceedings, and judicial review of, a leasing program, exploration plan, or "D. & P." plan.

Section 24—Remedies and penalties

Both versions provide for appropriate remedies and penalties. The House amendment provides in subsection 24(a) for actions only "upon a request by the Secretary". The Senate bill provides for civil actions "at the request of the Secretary, the Secretary of the Army, or the Secretary of the department of which the Coast Guard is operating". The conference report follows the Senate bill.

The House amendment provides in subsection 24(a) for the institution of action by "the Attorney General". The Senate bill provides for the institution of action by the Attorney General "or United States Attorney". The conference report adopts the Senate language.

The House amendment specifically provides for civil penalties for violation of the terms of a lease, license or permit. The Senate bill con-

tains no such specific reference. The conference report employs the House language.

The House amendment provides in subsection 24(b) that only the Secretary of Interior may assess, collect and compromise penalties. The Senate bill provides that the Secretary of Interior, Secretary of the Army and the head of the Coast Guard may all collect penalties. The conference report follows the House amendment. The Secretary is, of course, bound to seek appropriate penalties, and collect them, for violations discovered and reported by other agencies, such as the Coast Guard or Army, which have enforcement responsibilities under this act. In addition, nothing is intended by this section to affect the power of the Secretary of Energy or the Federal Energy Regulatory Commission, or other agencies, to take appropriate action, under other laws, to enforce their own regulations.

The House amendment specifically provides in subsection 24(c) for criminal penalties for the violation of the terms of a lease, permit or license. The Senate bill contains no such specific reference. The conference report follows the House amendment.

Section 25—Oil and gas development and production

Section 25 is intended to provide the mechanism for review and evaluation of, and decision on, development and production in a leased area, after consultation and coordination with all affected parties.

Application

Both versions contain detailed and similar provisions describing development and production plans. The House amendment requires a development and production plan to be submitted for all future leases in a frontier area. The Senate bill provides for a development and production plan to be submitted for all future leases anywhere. The conference report requires a plan to be submitted for all future leases except in the Gulf of Mexico.

The House amendment also requires a plan to be submitted for existing leases in frontier areas, where no oil or gas has been yet discovered. The Senate bill similarly requires a plan to be submitted for existing leases where there has not yet been a discovery, but exempts the Gulf of Mexico. The conference report adopts the Senate language. Thus, the mandate and specific procedures of this bill that the Secretary of Interior must secure submission, and then review, approve, or disapprove a development and production plan applies to new leases or existing leases where there has not yet been a discovery and does not apply to leases, old or new, in the Gulf of Mexico. This does not affect the existing requirements on lessees, already established by the Secretary of Interior.

The conferees, by recommending the enactment of section 25 to the Congress, are not approving or disapproving existing requirements for development and production. It is hoped that the Secretary of Interior will apply existing law and requirements to tracts which have commenced development and production, and to other areas in the Gulf of Mexico, where development and production activities have been going on for a number of years, in such a manner as to limit bureaucratic redtape and otherwise minimize delays in the search for and production of oil and gas.

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The requirements of this new section are specifically made inapplicable to the Gulf of Mexico. However, there are areas in the eastern gulf that have never been developed. While a sale—the so-called MAFLA sale—has been held for this region, no development or production has occurred there. The conferees therefore adopted a provision that gives the Secretary of the Interior the discretion to require submission of plan—in accordance with this section—for development and production activity in this area which is defined as being adjacent to the State of Florida.

The conference committee understands that lines have already been drawn to determine those areas that are adjacent to the State of Florida. [See 43 Federal Register 24711 (June 7, 1978)].

Onshore impacts and submission and contents of plans

Both versions provide for an accompanying onshore impact statement. The House amendment provides for the statement to include all operations for development, production, transportation, processing, or refining. The Senate bill provides for operations for development or production. The conference report follows the Senate bill.

Both versions provide for the submission of plans and statements to Secretary of Interior and then by the Secretary to outside groups. The House amendment excludes from these requirements of submission, "privileged information (as such term is defined in regulations issued by the Secretary)". The Senate bill excludes "interpretative data, which, pursuant to regulations prescribed by the Secretary, constitute confidential or privileged information." The conference report follows the House amendment.

The House amendment provides that information is to be submitted to the Governors and upon request, to the executive of any affected local government. The Senate bill provides that they are only to be "made available" to the executive of any affected local government. The conference report follows the House amendment.

It is intended that development and production plans and statements are to be provided to local government executives upon request. Furthermore, there is to be no independent basis for legal action by a local government unit against activities under this act, or actions pursuant to this act, because of an alleged failure to consult with, submit data to, or receive the recommendations of a local government.

The House amendment precludes a future lease from being issued without a requirement of compliance with the development and production plan for any lease "in any frontier area". The Senate bill provides an exception for this requirement for future leases in "the Gulf of Mexico". The conference report adopts the Senate language but in a separate section allows the Secretary to apply this provision to future leases in the Gulf of Mexico adjacent to the State of Florida (see discussion above).

Both versions provide for specific items to be included in a development and production plan. Among other things, the House amendment provides a requirement of a "description of all facilities and operations located on the Outer Continental Shelf". The Senate bill uses the words: "all offshore facilities and operations". The conference report

follows the House amendment, making it explicit that the plan itself is to only cover OCS facilities and operations, including pipelines, and not facilities and operations in State waters.

Also, both versions, and the conference report, require a plan to include "an expected rate of development and production and a time schedule for performance." The consideration and review by the Secretary of Interior of this element of a plan must be made in light of any applicable regulations by the Secretary of Energy on production rates and diligence. [See DOE Act, section 302(b) and 302(c)].

The requirements as to information to be submitted to the Secretary of Interior under the section are not intended to affect the authority of the Secretary of Energy, the Federal Energy Regulatory Commission, or any Federal department or agency, to collect, or require information under any other law.

Consistency, approvals, modifications, disapprovals, and revisions

The House amendment provides that no license or permit for any activity described in a development or production plan is to be granted unless there is conformity with the requirements of the Coastal Zone Management Act. The Senate bill contains no comparable provision. The conference report follows the House amendment.

Both versions provide for an environmental impact statement (EIS) at least once, but use differing words. The House amendment provides that the Secretary shall at least once "in each frontier area, declare the approval of a development and production plan or plans to be a major Federal action". The Secretary is also to evaluate the cumulative effect of activities on an area. The Senate bill provides that the Secretary shall at least once prior to approving a development and production plan in any area or region as defined by the Secretary, other than the Gulf of Mexico, declare approval to be a major Federal action. No language as to cumulative effects is included. The conference report adopts the common intent of both provisions. Except for the Gulf of Mexico area or region, the Secretary of Interior is to declare approval of a development and production plan in each defined area or region to be a "major Federal action". Thus, for each area or region, there shall be, as required by the National Environmental Policy Act (NEPA), and CEQ guidelines, preparation of a draft environmental impact statement, a hearing, and a final statement. The Secretary of Interior is given the discretion to invoke NEPA procedures after submission of a plan for the first development proposal in an area or region, or the second or third—so long as it is invoked at least once. The conferees expect that NEPA will be invoked prior to approval of a plan when major or substantial development and production activities seem to be indicated for an area or region. In preparing, drafting, and revising the EIS, the conferees expect the Secretary of Interior to consider and address the cumulative effects of past and future OCS activities in an area or region.

Both bills provide for plans to be submitted by nearby lessees, when NEPA procedures are invoked. The House amendment provides that the Secretary may require lessees of tracts "for which development and production plans have not been approved" to submit such plans. The

Senate bill provides that the Secretary "may require lessees on adjacent or nearby leases" to submit such plans. The conference report follows the House language.

The House amendment provides for specific review procedures and a 90-day review period for development and production plans where no EIS is required or prepared. The Senate bill similarly provides for such procedures, but provides for a 60-day review period. The conference report follows the House language, with the adoption of the 60-day review period as in the Senate bill.

Both versions provide for a determination by the Secretary as to approval of a development and production plan. The House amendment provides for review and decision by the Secretary within 60 days of a final EIS or submission of a plan. The Senate bill provides for determination within 60 days of release of an EIS, or 120 days after the period for comment for a plan. The conference report follows the House amendment.

Both versions provide for modifications of a plan because of environmental inadequacies. In addition, the House amendment specifically provides for modification in light of air quality regulations. The Senate bill contains no comparable language. The conference report follows the House amendment with reference to air quality regulatory requirements of the conference substitute (see discussion as to Section 5(a)(8)).

The Senate bill provides for modifications to comply with the Coastal Zone Management Act and the consistency requirements of such act. The House amendment contains no comparable language as amendments to the OCS Lands Act of 1953. The conference report follows the Senate bill with a conforming amendment to require any modification which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with an approved coastal zone management program to receive concurrence by such State with respect to the consistency certification unless the Secretary of Commerce makes a certain finding.

Both versions provide for procedures for disapproval. The House amendment specifically provides for disapproval for failure to comply with air quality regulatory requirements. The Senate bill contains no specific reference to air quality. The conference report follows the House amendment with reference to the air quality regulatory requirements of the conference report. (See discussion as to section 5(a)(8).)

Both versions provide for disapproval for failure to comply with the requirements of the Coastal Zone Management Act, but use different language. The conference report follows the House amendment.

Both versions provide disapproval for environmental reasons in substantially the same language. However, there are structural differences in these provisions and the House amendment specifically includes "fish and other aquatic life" as part of "life," while the Senate bill only includes "aquatic life." The conference report follows the House amendment.

Both versions provide for cases where compensation is not to be granted for disapproval where there is a failure to comply with regulations, or requirements of the Coastal Zone Management Act, but use

different language. The conference report follows the House amendment.

Both versions provide for procedures for disapproval, followed by cancellation, and compensation, but use different wording. The Senate bill provided detailed standards for compensation if there is a cancellation after disapproval. The House amendment provides that cancellation shall not foreclose any claim for compensation as required by the Constitution or any law. The conference report follows the Senate bill, and adopts the procedures of section 5(a)(2) as to compensation. (See discussion as to section 5(a)(2)(C).)

Both versions provide for cancellation if a plan is not submitted or not complied with. The House amendment provides that such cancellation is to be in accordance with procedures described in section 5 (c) and (d) of the act. The Senate bill provides that such cancellation is to occur after notice, a reasonable period for corrective action, an opportunity for a hearing, and judicial review. The conference report adopts the House language.

As described above, the machinery for approvals, modifications, disapprovals, and revision of D. & P. plans is the responsibility of the Secretary of Interior. However, any such approvals, modifications, disapprovals, and revisions must be consistent with any applicable regulations promulgated by the Secretary of Energy. (See DOE Act, sections 302 and 303.)

Section 26—Outer Continental Shelf oil and gas information program

Section 26 describes the procedures and requirements for obtaining and releasing information from lessees and permittees.

Both versions, provide for the submission of data by lessees or permittees. The House amendment provides that the Secretary is to have access "to all data and information (including processed, analyzed, and interpreted information)." The Senate bill provides for access to "all data obtained from such activity." The conference report follows the House amendment, adopting the common intent of both versions.

Both versions provide for payments for reproduction and reprocessing in certain circumstances. The House amendment provides for payment to a permittee of the cost of processing and reproducing data, in all cases. The Senate only provides for payments to a permittee for processing data specifically requested by the Secretary and not otherwise prepared in the normal conduct of business. The conference report follows the House provision but with an amendment to conform it to existing regulatory requirements, 30 C.F.R. 251.13. Thus under the conference report, a permittee is to be fully compensated by the Federal Government for reproduction costs. In addition, he is to be compensated for any processing or reprocessing, specifically requested by the Secretary and not otherwise pepared in the normal conduct of business. If processing has been done by the permittee in the normal conduct of his business, the Secretary must pay the costs attributable to processing or reprocessing of data and information at the "lowest rate available to any purchaser for processing such data and information."

Both versions provide for the submission to affected States of summaries of data designed to assist them in planning for onshore impacts. In addition, the House amendment provides for the submission

of such summaries "to any requesting affected local government." The Senate bill contains no such reference. The conference report follows the House provision but amends it to read: "and upon request, to any affected local government." The language was slightly altered to emphasize that summaries of such data are only to go to local government units when specifically requested. It is intended that local governments are generally to act through their State government representatives. There is to be no independent basis for legal action by a local government unit against activities under this act, or actions pursuant to this act, because of a dispute regarding any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

Both versions provide for the transmittal of certain information, for example, reports and statements to affected States. The Senate bill provides that no information is to identify any particular tract with a name of a party, so as to compromise competitive position. The House amendment contains no comparable language. The conference report follows the Senate bill and makes a technical change. To reduce the volume of information that would otherwise be forwarded to a possibly overwhelmed government, the Secretary is to submit an index of all documents and then if a request is made, submit any document or documents requested.

The House amendment provides that if an employee of the Federal Government or of a State reveals privileged information, the lessee or permittee may commence a civil action for damages against the United States or a State. The House amendment also provides that the State or Federal government cannot claim immunity because such employee was outside of his scope of employment. The Senate bill contains no comparable provision. The conference report follows the House amendment.

The conferees adopted this provision, and the restrictions on release of information, to protect proprietary information, and not to discourage access by qualified officials.

The Senate provides that if the Secretary makes a determination that drilling is necessary for more accurate information, then the Secretary can contract for such drilling. Specific budgetary procedures are outlined for funding such drilling, and the annual report is to include the cost of a drilling program, staffing, and a description of such program. The House amendment contains no comparable provision. The Senate receded on the provisions and they are not included in the conference report.

The procedures and requirements of the OCS oil and gas information provision described in section 26 relate to the authority and responsibilities of the Secretary of Interior. Nothing in this section affects the authority of the Secretary of Energy, Federal Energy Regulatory Commission, or any other Federal department or agency, to obtain, collect, assess, classify, and release information when authorized or required under any other law including section 11 of the Energy Supply and Environmental Coordination Act of 1974.

The House amendment contains a provision relating to release of information obtained by the Federal Government "in the conduct of

geological or geophysical explorations by any Federal agency pursuant to section 11 of this act."

The conference report, as a conforming change to section 11 of this report (see discussion on sec. 11(a), supra), deletes this reference.

Section 27—Federal purchase and disposition of oil and gas

S. 9 provides many new bidding options, involving royalty and net profit shares. Section 27 provides the procedures for the securing of royalty and net profit share oil and gas and, in addition, gives the United States the right to purchase oil and gas and to distribute it.

The Senate bill provides for collection of royalty on net profit of oil and gas, and the purchase of oil and gas from a "lease or permit" and the House amendment only refers to "lease." The conference report follows the House language.

The conferees note the passage of the Department of Energy Organization Act, 91 stat. 565, and intend that the collection of royalty or net profit shares in kind and purchase of oil and gas by the Secretary of Interior is to be in conformity with applicable regulations promulgated by the Secretary of Energy, DOE Act, section 302 (b)(5).

Both versions and the conference report allow title to any oil or gas to be transferred to certain requesting Federal agencies and departments. Such transfers are to be in accordance with any applicable regulations of affected agencies and departments.

As a conforming change, the conference report specifies that the allocation, offering, distribution, and sale of such oil are to be in compliance with any applicable regulations promulgated by the Secretary of Energy.

Both versions provide that the authority of the Secretary of Interior to sell oil is limited by any provision of law in effect, or regulation implementing such law, providing for mandatory allocation and pricing.

Both versions and the conference report provide that if oil or gas is offered for sale and no acceptable bids are received, and if the oil or gas is not otherwise transferred, the lessee is to take any such oil or gas and pay the regulated price, if applicable, or fair market value. The determination as to whether a bid is acceptable is to be made jointly by the Secretary of Interior and the Federal Energy Regulatory Commission as to gas.

Both versions provide for allocation of royalty oil to small refiners.

The House amendment provides that any oil sold or allocated to small refiners under this section is to be credited against that amount allocated under section 8 of the act, which deals with the 20-percent set-aside for small and independent refineries. The Senate bill contains no such limitation. The House receded and the crediting provision is not included in the conference report.

The House amendment defines "small refiner" in accordance with the Small Business Administration standards. The Senate bill defines "small refiner" specifically, as one who qualifies as a small business concern under the rules of the SBA and who cannot purchase in the open market an adequate supply of oil to meet his needs. The conference report follows the House amendment with the addition of the

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phrase "in effect as of the date of enactment of this section or as thereafter revised or amended." Thus, a small refiner, for purposes of section 27, is one so defined by the Small Business Administration standards, now or in the future.

Section 28—Limitation of exports

The findings, purposes, and policies of S. 9 make it clear that the development of the Outer Continental Shelf is to be one method to reduce dependence on foreign energy sources and increase the domestic supply of oil and natural gas. Section 28 limits exports of any OCS oil and gas. Exports are to be allowed only in cases of exchange agreements, efficiency, or the national interest, and then only when such exports do not add to dependency on foreign energy sources and when the President makes a specific finding to this effect. The President must submit his findings and recommendations to Congress as to the export of any oil or gas for approval or disapproval. If the Congress, within 60 days, passes a concurrent resolution of disapproval stating that such export would not be in the national interest, further exports are to cease.

Both versions provide for limitations on exports of domestic oil and gas. The House amendment provides that before there is such an export, the President has to make a finding that such exports "will not increase the number of barrels of oil or cubic feet of gas imported into this country." The Senate bill provides that the President's finding is only to be that "such exports will not increase reliance on imported oil and/or gas." The conference substitute adopts the Senate language.

The House amendment provides in subsection 28(d) for an exemption to the limitation for oil or gas "which is exchanged or exported pursuant to an existing international agreement." The Senate bill contains no comparable language. The conference report adopts the House language.

Section 29—Restrictions on employment

Both versions provide for restrictions on employment of employees of the Department of Interior who have had duties or responsibilities under the act. The Senate bill provides an absolute ban of employment related to previous work for 2 years after termination of employment. The House amendment provides more specific standards as to which kind of activity is or is not permitted after termination of employment. For example, it provides that former high-ranking Interior Department employees may not represent a party other than the United States for a period of 2 years after leaving the Interior Department, if that representation relates to a matter that was within his official responsibility. It also prohibits any effort by a former high-ranking employee to influence the Interior Department on any matter for a period of 1 year after leaving the Department. The conference report follows the House amendment.

Section 30—Documentation, registry, and manning requirements

The House amendment contains a section detailing certain requirements for OCS facilities and vessels. Specifically, the provision pro-

vides for regulations (1) to generally require manning or crewing by U.S. citizens or permanent resident aliens; (2) to require documentation under the law of the United States; and (3) to require certain minimum standards of design, construction, alterations, and repair. The Senate bill contains no such section.

The conferees adopted a substitute section intended to insure safe operations on all OCS facilities and vessels, and to reconcile the dual concerns of providing the fullest possible employment for Americans in U.S. Outer Continental Shelf activities and eliminating to the fullest possible extent the likelihood of retaliation by foreign nations against American workers in foreign offshore activities.

Safety

The House amendment provides that within 6 months after enactment of the 1978 OCS Amendments, the Coast Guard is to promulgate regulations requiring any vehicle or structure used for OCS activities authorized by this act to comply with such minimum standards of design, construction, alteration, and repair as the Coast Guard is to require. The Senate bill contains no such provision.

The Conference report adopts the House provision with two changes. First, the conference report provides that standards can be established by the Coast Guard or the Secretary of Interior. This conforms this section to the rest of the OCS Act. Coast Guard and Interior generally share safety and other regulatory responsibilities (see discussion in this statement of managers on secs. 21 and 22). Second, a new subparagraph (b) is inserted into this section to provide that the requirement of application and enforcement of such standards is not to be applied retroactively to any vehicle or structure. Thus, such standards are not required for any vehicle or structure built prior to the enactment of the 1978 OCS Amendments—until such time as they are rebuilt. If such vehicles or structures are rebuilt—then such new standards are to be applied. Of course, as detailed in this statement of managers in its discussion on section 5(a) and sections 21 and 22, nothing in this limitation is meant to supersede the general regulatory and enforcement authority of the Secretary of Interior or the Coast Guard, granted elsewhere in the OCS Act. It only limits the mandate of new standards and enforcement of such standards and does not limit the general regulatory discretionary authority.

Documentation

The House amendment requires the Coast Guard, within 6 months of enactment of the 1978 OCS Amendments, to promulgate regulations, applicable 1 year after the effective date of the regulations, requiring "any vessel, rig, platform or other vehicle or structure" used for OCS activities, and built or rebuilt after the applicable date "when required to be documented, be documented under the laws of the United States." The Senate bill contains no such provision. The conference report adopts the House provision with a clarifying amendment. Such regulations are to apply to vessels "required to be documented by the laws of the United States." Thus, this provision re-

affirms existing interpretations and applications of mandatory documentation under U.S. laws.[1]

Manning and crewing

The House amendment requires the Secretary of the Department in which the Coast Guard is operating to promulgate regulations within 6 months of enactment of the 1978 amendments which require, with certain exceptions, that vessels or other vehicles or structures used for OCS activities be manned or crewed by U.S. citizens or permanent resident aliens.

The Senate bill contains no such provision. The conference report adopts a substitute for this provision providing for exceptions in certain cases and limitations in others.

The conference report thus provides, as does the House version, that the Coast Guard is to promulgate regulations that vessels or other vehicles or structures be manned by U.S. citizens or permanent resident aliens. "Permanent resident aliens" are those lawfully admitted to the United States, in accordance with the Immigration and Naturalization Act of 1952, as amended, section 101(a)(20), 8 U.S.C. 1101(a)(20).

The conference report also adopts the three limitations or exceptions included within the House version, to avoid any disruption in OCS activities by this manning requirement. First, the requirement does not apply where "specific contractual requirements or national registry requirements in effect at the time of the promulgation of the regulation" provide for foreign personnel. This waives the requirement of this section requiring exclusive use of American citizens or resident aliens when an existing contract already covers operations. In this case, immediately upon the expiration of the contract, the American crew requirement would come into effect.

This also omits from the citizenship or permanent residence requirements those members of the crew of foreign-flag vehicles or structures that come under the manning requirements established under certification of registry of other nations, generally only the marine crew. Any such foreign manning laws enacted after the passage of this law would not be applicable.

Second, section 30 would not apply if "there are not a sufficient number of such citizens or aliens who are qualified and available for work." This is virtually the present standard of the immigration law. Special circumstances may exist which prevent all operators from complying

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[1] Under existing law, only vessels can be documented and only vessels of 5 net tons or more which are engaged in commerce are "required to be documented." Platforms are never documented. No fixed rigs (platforms) are required to be documented because they are not engaged in commerce. Thus, under present law, vessels operating between points in the United States are embraced within coastwise laws. Under consistent federal government application, vessels operating between the coast of the United States or any point within the United States, its territorial waters, and its territories and possessions—and fixed OCS platforms or mobile rigs secured to or submerged onto the OCS for drilling—have been required to be documented under the laws of the United States. Of course, vessels engaged in traffic between platform and platform, secured rig and secured rig, a platform and secured rig are also included. Vessels which can be documented include ships, semisubmersible, submersible or jack-up drill rigs and drill ships, whether propelled or self-propelled. Thus, this provision does not change this existing law. There has been some question raised as to whether vessels, not departing from a point within the United States, or its territories or possessions, and delivering items to a vessel in the offshore waters—but not carrying merchandise or passengers from one point in U.S. waters or on the OCS to another—are required to be documented. By present opinion of the Treasury Department, they are not. In any event, if they are not "required to be documented," they are not covered by this provision. If they at some future time are required, they would be so under this section—but also be so under present law.

within the prescribed time and thus the substitute provision has, in those instances, made allowance for the temporary employment of foreign nationals until qualified U.S. citizens or resident aliens are available.

The provision as to use of citizens and permanent resident aliens applies only to "manning" or "crewing." Thus, specialists, professionals, or other technically trained personnel called in to handle emergencies or other temporary operations would not be included.

Third, this requirement is prospective only. It only applies to vessels, vehicles or structures used one year after enactment of the regulations and thus no later than 18 months after enactment of the 1978 amendments.

The conference report adds two more exceptions or limitations. The fourth exception is that the manning or crewing provision could be waived if the President makes a specific finding, as to a particular vehicle or structure, that application of this requirement would be adverse to the national interest. Thus, if national security or defense would be affected, for example, the President could waive this provision. However, such waiver can only be after a specific finding and only on a vehicle-by-vehicle, structure-by-structure basis.

Finally, as a fifth exception or limitation, the conference report does not automatically apply the domestic manning and crewing provision to foreign offshore vehicles or structures. The conferees sought to establish appropriate response to foreign "hire national" statutes, policies or practices which discriminate against Americans working overseas or to otherwise damage international relations.

Under the conference report the manning or crewing requirement does not apply to foreign offshore vehicles or structures until the President makes certain findings in relation to the foreign country in which the vehicle or structure was built. If the President finds that a foreign nation, directly or indirectly, by statute, regulations, policy or practice, has adopted a national manning requirement for equipment in its offshore waters, he may apply this manning or crewing provision.

The conferees were explicit as to the scope of this application to foreign nations. A vehicle or structure of a foreign nation is defined as one over 50 percent owned by citizens of a foreign nation, or under the effective right of such citizens to effectively control such vehicles or structure. If not 50 percent so owned, or so controlled, it is not a "vehicle or structure of a foreign nation" and this limitation does not apply. The general requirement of domestic manning or crewing would apply, with the four exceptions outlined earlier.

Next a finding is required that a foreign nation has acted to provide for domestic manning. The actions are to be those of the government of the foreign nation—whether by its national government or a political subdivision. The actions may be direct—by statute or regulations—or indirect—by lease, license, permit or contract terms. The conferees expect the President to utilize these mechanisms and to make a continuing review of existing and future statutes, rules, policies, and practices and to apply this provision in appropriate circumstances. The conferees expect that Congress will actively exercise its oversight responsibilities to assure that this provision is utilized in appropriate circumstances.

If such a finding is made, the President is to determine to what extent and to what degree it is being applied and to respond in kind, that is in proportion. Thus, if only a political subdivision has domestic manning, our regulations would apply to the citizens of the political subdivision and not to those of the whole country. Or, if a foreign nation has two-thirds manning requirement for certain structures, regulations implementing the President's determination would similarly apply to similar structures and be limited to a two-thirds requirement. Or if a foreign country requires its citizens to be used for certain types of work and not for others, this section would be applied to those workers and not generally. Of course, a general broad-based foreign government domestic manning requirement would allow a similar application here.

TITLE III—OFFSHORE OIL POLLUTION FUND

Title III provides the procedures to be followed in the event of an oilspill and compensation for cleanup costs and damages resulting from such a spill. The title applies to spills from any offshore facility in the OCS, and any oil tanker, barge or other watercraft which is operating in offshore waters, and which is carrying oil directly from an offshore facility.

Both the Senate bill and House amendment have comprehensive oilspill liability titles (title III of both versions). The conferees are aware that a comprehensive oilspill bill has passed the House of Representatives and has been approved by the Senate Commerce and Transportation Committee, and that a similar bill is now pending in the Senate Environment and Public Works Committee. Such bills apply to all oilspills into the marine environment, including those resulting from OCS-related activities.

The conferees do not in any way intend, by adoption of this title, to affect consideration of, or approval of, any language in a comprehensive oilspill act. It is hoped and expected that such a comprehensive bill will soon be enacted and thus obviate the need for this title. The conferees expect that his title would be abrogated by passage and enactment of such a comprehensive bill.

Moreover, certain decisions were made by the conferees as to language in sections of this title. By this action, the conferees do not intend in any way to bind themselves, their committees, or the Senate and House as to appropriate language for a comprehensive oilspill bill.

To fully explain the action of the conferees, this statement of managers will discuss this title section by section, and describe resolution of substantive differences in the two versions.

Section 301—Definitions

This section defines 25 terms which appear in the oilspill liability title.

Both the Senate and House amendment contain either identical or very similar language for seven terms. Certain technical and conforming changes were made and language expressing the desires and intents of both Houses were included in the conference report for these terms: "Secretary", "fund", "person", "damages", "person-in-charge", "offshore facility", and "discharge".

The House amendment contains several terms not defined in the Senate bill or defined differently than in the Senate bill. The Senate receded and the following terms, as defined in the House amendment, are included in the conference report as follows:

In the definition of "incident", the House amendment relates to occurrences involving one or more offshore facilities or vessels, or any combination thereof. The Senate bill does not include the phrase, "any combination thereof." The conference report follows the House amendment.

The House amendment includes a definition of "public vessel" which is a subclass of vessel that performs governmental functions for Federal, State or local units of government. In the House amendment, public vessels are exempted from later liability provisions and the victims of oil pollution caused by such vessels must seek relief from the fund. Government owned or operated vessels which are engaged in commercial activities are not included in the definition. The Senate bill contains no comparable definition. The conference report adopts the House amendment.

The House amendment includes a definition of "facility" which means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil. The Senate bill contains no comparable definition. The conference report adopts the House amendment.

The House amendment includes a detailed definition of "oil pollution" to include discharged oil in the contiguous zone, on the high seas when discharged in connection with OCS activities, or on or near a foreign country entitled to reciprocal rights under this title. The Senate bill contains no comparable definition. The conference report adopts the House language with an amendment. "Oil pollution" is to include spills from vessels transporting OCS oil whenever the vessels are in offshore waters and to include effects on offshore waters and the adjacent shore.

The House amendment includes separate definitions of "United States claimant" and "foreign claimants." In each case, a claimant includes individual residents, and government agencies. The Senate bill has no comparable provisions. The conference report follows the House amendment.

The House amendment includes definitions of "United States" and "State" which mean all of the States, territories and possessions of the United States. The Senate bill has no comparable provision. The conference report follows the House amendment.

The House amendment includes a definition of "oil" which means petroleum including crude oil or any fraction or resodue thereof. The Senate bill contains no comparable provision. The conference report follows the House amendment.

The House amendment defines "cleanup costs" to mean the cost of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident. The Senate bill more specifically defines "cleanup costs" to include all reasonable and actual costs incurred in removing or attempting to remove oil discharged or in attempting to prevent, reduce or mitigate damages from such a discharge. The conference report follows the House amendment.

The House amendment includes a definition of "claim" which means a demand in writing for a sum certain. The Senate bill contains no comparable provision. The conference report follows the House amendment.

Both versions have similar definition of "owner" except that the House amendment specifically includes the holding of a title as proof of ownership and specifically excludes any person who holds indicia of ownership primarily to protect his security interest. The conference report is the same as the House amendment.

Both versions have similar definitions of "operator" except that the House amendment specifically excludes owners of either a vessel or an offshore facility, (as already included in the definition of "owner") and specifically includes, with respect to any vessel, any person responsible for the manning, victualing and supplying of the vessel. The conference report is the same as the House amendment.

The House amendment includes a definition of "property" which means littoral, riparian, or marine property. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment includes a definition of "guarantor" which means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment includes a definition of "gross ton" which means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment includes a definition of "barrel" which means 42 United States gallons at 60° Fahrenheit. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The Senate bill includes a definition of "revolving account" which means the account referred to in section 302(b) of that bill. The House amendment contains no comparable provision. The Senate receded to the House and the conference report does not contain this definition.

The conferees also agreed to the following:

The House amendment includes a definition of "ship" which means either of the following types of vessels carrying oil as bulk in cargo: 1) a self-propelled vessel, or 2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States. The Senate bill contains no comparable definition. The House receded to the Senate and the conferees deleted this definition. This provision is no longer appropriate or relevant to, or used in, title III of the conference report.

The Senate bill includes within the scope of the oilspill title, a "vessel" transporting OCS oil, whether in the waters above the OCS or in the navigable waters. The House amendment is limited to the waters above the OCS. The conference report provides for the scope to be for vessels operating in all "offshore waters", that is in the waters above the OCS and above the submerged lands.

The House amendment includes a definition of "removal costs" which means (1) costs incurred under section 5 of the Intervention of

the High Seas Act; and (2) other cleanup costs. The Senate bill contains no comparable provision. The conference report follows the House amendment, with an amendment. It specifically defines removal costs to include costs incurred under subsection (c), (d) or (l) of section 311 of the Federal Water Pollution Control Act. This enables the Government to recover from the Fund any removal costs authorized by the recently amended Federal Water Pollution Control Act for OCS-related spills.

Section 302—Fund establishment, administration, and financing

Both versions call for the establishment of funds which are to be maintained at a level of not less than $100 million and not more than $200 million. The House amendment allows the limitation to be exceeded when necessary to permit moneys recovered or collected on behalf of the fund, to be paid into the Fund. In the House amendment, the fund is created within the Treasury of the United States, while the Senate bill establishes the fund within the Department of Transportation and establishes also a revolving account, without fiscal year limitation, within the Treasury. In the House amendment, the fund is called the "Offshore Oil Pollution Compensation Fund." In the Senate bill, the fund is called the "Offshore Oil Production Compensation Fund." On all these minor differences, the conferees accepted the language of the House amendment.

The Senate bill establishes a revolving account in the Treasury of the United States that would be available to the fund to carry out the provisions of the title. There is no comparable House provision. The Senate receded to the House and the conference report does not contain this paragraph.

Both versions, in slightly different words, provide that the fund shall consist of money generated by a 3-percent barrel tax on oil obtained from the Outer Continental Shelf, and money obtained by the fund through fines, penalties and efforts to obtain reimbursement. The conference report follows the House amendment.

Both versions authorize the Secretary to promulgate regulations to modify the fee for the purposes of maintaining a proper amount in the fund. The House amendment specifically requires that such regulations not become effective until at least 90 days following their publication in the Federal Register. The conference report follows the House amendment.

The House amendment alone provides that no such fee regulation, whether or not actually in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. The conference report adopts this provision. The House amendment provides further that no modified fees paid by any owner pending completion of judicial review of the modified fee regulation shall be repaid to such owner. The Senate bill contains no comparable language. The House receded to the Senate and the conference report does not contain this language.

The House amendment alone includes a provision making any person who fails to pay fees required under this title liable for a civil penalty and liable for all fees due plus the interest. Also under the House amendment, the Attorney General is authorized, at the request of the Secretary of the Treasury, to bring an action for fee amounts due and

penalties in the name of the fund. The Senate bill has no such provision. The conference report is the same as the House amendment.

Both versions contain a provision which would make the fund immediately available for removal costs. The House amendment also specifically authorizes the Secretary to promulgate regulations designating the person or persons who may obligate available money for this purpose. The conference report adopts the House language and also adds provisions authorizing immediate availability of funds for claims settlement and other administrative and personnel costs. This allows the Government to charge all necessary costs of administering the fund to the fund itself. In addition, the conference report makes it clear that any payments are subject to such amounts as provided in appropriations acts.

The House amendment includes a provision making criminal the falsification of any required record or document. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

In different language, both versions authorize regulations for requiring certain records and documents and access to such records. The House amendment provides for such regulations to be promulgated by the Secretary of the Treasury. The Senate bill provides for promulgation by the Secretary of Transportation. In addition, the House amendment provides access to the Secretary of the Treasury and the Comptroller General. The Senate bill provides for access to the Comptroller General and the Secretary of Transportation. Finally, the House amendment specifically provides that the Secretary of Transportation is to determine the level of funding. The Senate bill contains no such specific authorization. The conference report adopts the House language for these requirements on regulations for records and documents and access to them.

Both versions, in differing language, allow money not immediately needed by the fund to be invested in interest bearing special obligations of the United States. The House amendment states that such investments shall be made by the Secretary of the Treasury, while the Senate bill states that they shall be made by the Secretary of Transportation with the approval of the Secretary of the Treasury. The House amendment also states that the special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The House provides that any interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund. The Senate bill contains no such specific provisions. The conference report is the same as the House amendment on interest accounts.

Both versions have similar provisions authorizing the fund to borrow from the Treasury when necessary. However, the Senate bill provides that such borrowing shall not be in excess of $500 million, while the House amendment contains no stated ceiling. The House amendment states specifically that notes and obligations shall be redeemed by the Secretary from moneys in the Fund. The conference report is the same as the House amendment on authority to borrow, no limit on amounts that can be borrowed and redeemed.

Section 303—Damages and claimants

Both the Senate bill and House amendment list a variety of potential damages from oil pollution, for which compensation may be sought from the fund.

The House amendment specifically states that claims are to be asserted for "economic loss", arising out of, or directly resulting from, oil pollution for certain enumerated items. The Senate bill contains no such specific language but only enumerates items to be considered as damages. The conference report adopts the House language. While both versions generally include the same basic items within the scope of allowable damages, there are some differences.

The House amendment specifically includes removal costs as a basis for a claim under this provision. The Senate bill does not. The conference report adopts the House language.

The House amendment limits a claim for removal costs in that the owner or operator of a vessel or offshore facility involved in an incident may assert such a claim for removal costs only if he can show that he is entitled under another provision of the title to a defense to liability. The Senate bill does not include any of this specific language. The conference report adopts the House language.

The House amendment includes as a basis for a claim loss of use of real or personal property, if the property involved is owned or leased, or the natural resource involved is utilized by the claimant. The Senate bill does not specifically enumerate this basis—but does provide for damage for the cost of repairing or replacing, income lost during repairs or replacement, and loss of value. The conference report adopts the House language.

The House amendment includes injury to, or destruction of, natural resources. The claim can be made by the President as trustee for natural resources over which the U.S. Government has sovereign rights or exercises exclusive management authority; or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State. Compensation is to be used only for the restoration of the damaged natural resources or for acquisition of equivalent resources. The Senate bill simply allows recovery for any costs or expenses incurred by the Federal or any State government in the restoration, repair, or replacement of natural resources damaged by an oil discharge. The conference report adopts the House language with an amendment which specifically provides sums recovered for injury to natural resources to be available to restore, rehabilitate, or acquire the equivalent of the resource and which specifically provides that the measure of damages is not limited to sums to restore or replace.

In addition, it is intended that reasonable costs associated with the preparation and presentation of natural resource damage claims are intended to be recoverable as part of each claim.

The House amendment includes as a basis for a claim loss of use of natural resources if the resource involved is used by the claimant. The Senate bill contains no specific provision on this basis of a claim. The House amendment allows a claim for loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources, if the claimant derives 25 percent

or more of his earnings from activities which utilize the property or natural resource. The Senate bill contains a similar provision, except that the period of loss of income or impairment of earning capacity for which a claim may be asserted must not exceed 5 years. On these two provisions, the conference report adopts the House language.

The House amendment includes as a basis for a claim, loss of tax revenue for a period of one year due to injury to real or personal property by any State or political subdivision thereof. The Senate bill contains a similar provision except that recovery may also be sought by the Federal Government. The conference substitute incorporates the House language but includes as a basis for a claim loss of tax revenue by the Federal Government.

Except for removal costs, the House amendment allows recovery by a foreign claimant to the same extent that a U.S. claimant may assert a claim. Such recovery is based on reciprocal rights and duties. The foreign claim is allowed for oil pollution in the navigable waters or in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident; if the foreign claimant is not otherwise compensated for his loss, and recovery is authorized by a treaty or executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants. The Senate bill contains a similar provision stating that no person shall be liable under the title to a foreign claimant unless a reciprocal condition similar to that in the House amendment is present. The conference report follows the House amendment with an amendment making the intent of both Houses clear that the foreign government can not be recompensed for tax losses. A claim for tax losses from a foreign government may present an awkward case for administrative adjudication.

Both versions have similar provisions authorizing the Attorney General to bring class action suits. The Senate bill specifically provides that sums recovered in such suits be distributed to the members of the class except for reasonable costs which shall be deposited in the U.S. Treasury. The House amendment contains no such specific language. The Senate receded to the House and the conferees adopted the House provision.

Both versions have similar provision allowing any member of a group to bring a class action suit in the absence of action by the Attorney General. In the House amendment, such suits are allowed after 60 days have elapsed from the date on which the Secretary designates the source of the oil discharge, while in the Senate bill such suits are allowed 90 days after a prohibited discharge has occurred. The conference report is the same as the House amendment.

The Senate bill has a provision which states that if the number of members of a class exceeds 1,000, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure. The House amendment has no similar provision. The Senate receded to the House conference report does not contain this provision.

Section 304—Liability

Subject to certain exemptions in each case, both versions with different language hold the owner and operator of a vessel or an offshore facility strictly liable, jointly and severally, for the damages spelled out in the respective bills. The House amendment refers only to the owner and operator of a vessel other than a public vessel. The Senate bill has no such specific limitation for vessels. The conference report is the same as the House amendment.

Both versions place limits on liability except in certain similar circumstances involving gross negligence or violations of applicable safety standards. The House amendment provides that such violations are of applicable safety, construction, or operating standards or regulations of the Federal Government; and must be within the privity or knowledge of the owner or operator. The Senate bill neither has this privity requirement nor does it limit regulations to those of the Federal Government. In addition, the House amendment does not limit liability when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities. The Senate bill has no such specific language. The conference report follows the House amendment on exceptions to limits of liability.

Both versions limit liability for the owner and operator of a vessel. In the House amendment, the limitation is $250,000 or $300 per gross ton, up to a maximum of $30 million, whichever is greater; in the Senate bill, the limitation is $150 per gross registered ton, with no maximum. The conference report provides for a limitation of $250,000 or $300 per gross ton, whichever is greater, thus striking the maximum.

Both versions limit liability for the owner and operator of an offshore facility of removal costs and an amount up to $35 million. The conference report specifically provides for limitation of "the total of removal and cleanup costs and an amount limited to $35 million for all damages."

Both versions provide certain defenses to liability. The House amendment provides that owners and operators shall not be liable where the incident was caused primarily by an act of war, civil war, or insurrection. The Senate bill would impose no liability to the extent that the owner or operator establishes that the discharge of oil or that any damages resulting from such discharge were caused by an act of war. The conference report precludes liability when the incident is caused solely by an act of war, hostilities, civil war, or insurrection.

The House amendment states that no liability shall exist where the incident is caused primarily by a natural phenomenon of an exceptional, inevitable or irresistible character. The Senate bill does not include this natural phenomenon exception. The conference report precludes liability where the incident is caused solely by "an unanticipated grave national disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character", which could not have been prevented by "due care or foresight".

The House amendment provides a defense to liability to the extent that the incident was caused by the negligence of a third party or the claimant. The Senate bill provides a defense only if the incident was totally caused by the negligence or intentional act of a third party, or

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the damaged party. The conference report adopts the Senate intent and provides a defense if the "incident is caused solely by the negligence or intentional act of the damaged party or any third party (including any government entity)."

When such intentional or negligent acts are involved, the Senate bill provides that the damaged party or third party involved shall, if also an offshore facility or vessel, be liable for such cleanup costs of damages to the same extent as if such discharge had occurred from their facility or vessel. The House amendment has no comparable language. The conference report deletes this provision.

The Senate bill provides that all removal costs incurred by a government agency are not subject to defense or limitations. The House amendment contains similar language as to facilities, but is not specific as to vessels. The House recedes and the Senate intent is included in a new subsection.

The House amendment requires that the Secretary, from time to time, shall report to Congress on the desirability of adjusting the monetary limitations on liability for the owners and operators of offshore facilities and vessels. The Senate bill contains no such provision, but requires the President to adjust the financial responsibility and liability requirements in accordance with the wholesale price index. The conference report adopts the House provision.

Subject to certain exceptions in both versions, both the Senate bill and the House amendment provide that the Fund shall be liable for damages not actually compensated and for which a claim may be asserted under the provisions of each respective title.

The House amendment provides that except for removal costs, the fund is not liable where the incident is caused primarily by an act of war, hostilities, civil war or insurrection, and, as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by negligent or willful misconduct of that claimant, or as to a particular claimant to the extent such damages or costs were caused by the negligent or intentional actions of the damaged party.

The Senate bill provides that the fund shall not be liable for cleanup costs and damages to the extent that the discharge was caused by war, negligence of the Federal Government, or negligent or intentional acts of a damaged party. The conference report bars liability of the fund for gross negligence or willful misconduct, in whole or in part, of a claimant and to the extent it is caused by the plain negligence of a claimant. Acts of war can be a basis for a claim against the fund.

Both versions provide that owners and operators shall also be liable for the interest on claims from the time the claim is presented until the time it is paid. The Senate bill alone specifically states that this interest payment shall not be subject to the limitation on liability provisions. The House amendment excludes from the period during which the interest is accruing the time, if any, from the date upon which the owner or operator offers to the claimant a settlement equal to or greater than that ultimately paid to settle the claim, to the date on which the claim shall be settled. No such language is in the Senate bill. In addition, the House amendment provides that if the owner, operator or guarantor shall offer the claimant, within 60 days of the date

upon which the claim was presented or advertised which ever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, he shall be liable for interest only from the date the offer was accepted by the claimant to the date upon which payment is received by the claimant. The Senate bill contains no comparable language. The conference report is the same as the House language on these interest provisions.

In the House amendment, it is stated that no indemnification, or similar agreement shall be effective to transfer the liability, other than as specified in the title. The Senate bill contains no comparable provision. The House receded and the conference report does not include this provision. The conferees were concerned that inclusion of this provision of the House amendment might radically change existing practice in regards to certain vehicles owned and operated by service contractors, who are too small to bear liability risks and for whom insurance coverage is not readily available. Non-inclusion of this provision will insure continued involvement of these companies and thus not decrease competition on the OCS.

Both versions, using different language, have similar provisions protecting the rights of owners or operators to sue parties who may have been responsible for a discharge of oil. The conference report adopts the House language amendment.

The House amendment provides that the provision of its section on liability shall supersede all such other provisions of law. The Senate bill has no comparable provision. The conference report is the same as the House provision.

Section 305—Financial responsibility

Both versions have similar provisions requiring the owners and operators of vessels to file certificates of financial responsibility.

In the House amendment, such filing shall be in accordance with regulations issued by the President, while the Senate bill requires the regulations to be issued by the Federal Maritime Commission.

Only the Senate bill exempts vessels of under 300 gross registered tons. Only the House amendment requires bonds to be issued by an authorized U.S. bonding company.

Both versions spell out acceptable methods of proving financial responsibility but the Senate bill adds, "other evidence * * * acceptable to the President".

On all these matters, the conference report follows the House amendment.

The House amendment has a provision requiring the Secretary of the Treasury to refuse required customs clearance to any vessel, subject to this section, which does not have a valid certificate of financial responsibility. The Senate bill has no comparable provision. The conference report adopts an alternative provision providing for regulations for denial of entry and detention of any vessel that does not produce the required certification.

The House amendment allows the Secretary to issue regulations granting himself access to all offshore facilities and vessels and requiring that he be shown upon request certifications of financial responsibility. The Senate bill has no comparable provision. The conference report follows the House amendment.

Both versions have provisions requiring the owner and operator of an offshore facility to obtain certificates of financial responsibility. The House amendment does not include in this requirement any facility not used to drill for, produce or process, oil, and which does not have the capacity to transport, store, transfer, or otherwise handle more than 1,000 barrels at any one time. The conference report contains the House language with a technical amendment making it clear that the subsection refers to "offshore facilities".

The House amendment provides that the evidence of financial responsibility shall be sufficient to satisfy the limits of liability which has been established, or $35 million, whichever is less. The Senate bill provides that such proof shall be based on the capacity of the offshore facility and other relevant factors. The Senate bill spells out a list of acceptable methods for demonstrating financial responsibility, while the House amendment simply states that such demonstration must be in accordance with regulations promulgated by the Secretary. With an amendment changing "regulations promulgated by the Secretary", to "regulations promulgated by the President" the conference report follows the House amendment.

Both versions provide that claims may be brought directly against the guarantor providing evidence of financial responsibility. The House amendment and not the Senate bill also states that the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner and operator, and that he shall be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner and operator, but he shall not be entitled to invoke in proceedings brought by the owner or operator against him. The conference report follows the House amendment.

The House amendment provides for a study by the President of the marine insurance industry. The study shall attempt to determine whether adequate insurance is available for the owners and operators subject to this Title to meet their obligations and whether the market is sufficiently competitive to assure purchasers of a reasonable range of insurance services. The study shall be completed within one year, with an interim report due in three months. The Senate bill has no comparable provision. The conference report includes onshore facilities in this provision. The intent of this change is to avoid a duplicative study of insurance if one is required by a future comprehensive oil-spill bill.

Section 306—Notification, designation, and advertisement

Both versions have similar provisions requiring owners and operators to notify the Secretary of oil pollution incidents from their vessels or facilities.

Both versions require the Secretary to notify owners and operators in cases where an oil pollution discharge from their vessel or facility is suspected. The House amendment requires that this be done upon designation by the Secretary that a particular facility was the source of a discharge. The Senate bill requires that it be done when the Secretary learns that a discharge is alleged to have occurred from a facility. Under both, the owner and operator are given 5 days to respond to the allegation. The House amendment also requires the Secretary to notify

the guarantor of the financial responsibility certificate of the facility or vessel involved.

In both versions, advertisement procedures are spelled out for cases where the owner or operator involved fails to deny the allegation or designation that the discharge came from his vessel or facility. These procedures are similar, except that in the Senate bill, the Secretary is required to publish the advertisement, in modified form if necessary, in the Federal Register.

Both versions outline procedures for advertising in cases where no owner or operator accepts, or fails to deny, that a discharge occurred from his vessel or facility. These procedures are similar except that in the House amendment they also apply specifically to cases where the source of a discharge was a public vessel, or when the Secretary is unable to designate a source.

Only the Senate bill requires that the Secretary continue to advertise after the initial advertisement period, at a rate not less frequently than once each calendar quarter for a total period of 5 years. The conference report incorporates the House language for this entire section.

The two versions have similar provisions spelling out those instances in which claims may be presented to the fund for settlement, except that the House amendment provides in addition for such presentation where the Secretary has advertised or otherwise notified claimants—cases where the spill emanated from an unknown source or a public vessel.

The House amendment alone provides that in cases where a claimant attempts unsuccessfully to reach an agreement with the owner and operator or guarantor, he may elect to commence an action in court against the owner, operator or guarantor, or to present the claim to the fund; that election to be irrevocable and exclusive.

The House amendment alone also specifically provides that claims for uncompensated damages may be presented to the fund in cases where the claim exceeds the liability limit of the owner and operator, or where the owner and operator and the guarantor are financially incapable of meeting their full obligations.

Both versions require that any person presented with a claim under this title shall, at the request of the claimant, transmit certain documents to the Secretary and the fund. In the Senate bill, such person is required to transmit such documents within 2 days of the request, and the claim in such cases shall be deemed to have been presented to the fund.

Both versions have similar provisions spelling out procedures for instances where a dispute arises between a claimant and the fund. The House amendment allows a claimant to submit the dispute to the Secretary sixty days after its initial presentation to the fund, while the Senate bill requires a wait of 90 days. The House amendment also allows claimants to elect to commence an action in court against the fund in lieu of submitting the dispute to the Secretary for decision; that election to be irrevocable and exclusive.

Both versions require, with different wording, the Secretary to promulgate regulations establishing procedures for the settlement of claims against the fund.

Both versions have similar provisions spelling out the private and governmental sources which the Secretary shall use to assist in adjusting and adjudicating claims. The House amendment alone includes State agencies among those who may be used to assist in processing claims against the fund. In such cases, the House amendment provides that no payment may be made on a claim asserted on or in behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary. The House amendment also specifically allows the Secretary to review and audit all claim payments.

In cases where a claimant is unable to reach a satisfactory settlement with the fund and thereafter presents his claims to the Secretary for review, the House amendment gives the Secretary the option of delegating the review to a three person panel. The House amendment sets out the general qualifications of the panel members. The Senate bill contains no comparable provisions.

Both versions allow the Secretary to refer disputes to an official appointed under section 3105 of title V, United States Code. The House amendment refers to the appointment of an administrative law judge; the Senate bill refers to the appointment of a hearing examiner.

The House amendment provides that the administrative law judge be a resident of the United States judicial circuit within which the damage complained of occurred. The Senate bill has no comparable provision.

Both versions have similar provisions spelling out the procedures for consideration of a dispute, except that, the House amendment states specifically that subpenas shall be issued in accordance with procedures in subsection (d) of section 555 of title 5, U.S.C., and rules promulgated by the Secretary. In addition, the House amendment allows the Secretary to invoke the aid of the local U.S. District Court in enforcing its power of subpena.

The two versions have similar provisions spelling out the proper location for hearings and disputes.

The House amendment allows the Secretary to review decisions of the administrative law judge if he so chooses.

The Senate bill, however, would prohibit the Secretary from reviewing decisions reached by the hearings examiner.

Both versions have similar judicial review provisions, except that the Senate bill specifies review in the district court in the nearest circuit in which the damage occurred or if the U.S. Court of Appeals for the District of Columbia, in the U.S. Court of Appeals for the District of Columbia.

The House amendment provides that in cases brought in court, both plaintiffs and defendants are required to provide the fund with copies of complaints and pleadings, that the fund may intervene as a matter of right and may be dismissed from an action, upon its own motion, when either the owner, operator or guarantor admits liability.

Under the House amendment, receipt of notice by the fund shall give res adjudicata effect to any judgment, even though the fund chooses not to become a party.

Under the House amendment, the sanction imposed on plaintiffs or defendants for failure to give notice to the fund is a loss of limitation of liability to which the defendant would otherwise be entitled

and the loss of any plaintiff's right to recovery from the fund for amounts not paid by the defendant.

The House amendment has a provision allowing the plaintiff to join the owner, operator, or guarantor in an action brought against the fund, and giving the fund the right to implead any other person who might be liable under the title, pursuant to rule 14 of the Federal Rules of Civil Procedure. The Senate has no comparable provision.

Both bills have similar provisions providing for time limits on the filing of claims, except that the House amendment allows three years from the date of discovery of economic loss or six years from the date of the incident resulting in the loss, whichever is earlier and the Senate bill allows only one year from the date of discovery of the damages of five years from the date that advertising was commenced, whichever is earlier.

The Senate bill provides that each person's damage claims arising from one incident which are presented to the Secretary shall be stated in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included at the time compensation is made, shall be deemed waived. The House amendment has no comparable provision. With certain technical changes, the conferees adopted the House language for this entire section.

Section 308—Subrogation

Both versions provide that any person or government entity, including the fund, who makes payment to a claimant under this title, acquires by subrogation the rights of that claimant to recover costs or damages covered by such payment.

The House amendment provides that it would be the Attorney General who would be the party bringing action on behalf of the fund against any liable party; the Senate bill allows the Secretary the option of appointing other attorneys.

Both versions have similar provisions spelling out what the fund shall recover in claims against the owner and operator, or the guarantor or a vessel or facility involved in an incident, except that the House amendment requires computation of interest pursuant to a stated formula, while the Senate bill requires it to be computed at the existing commercial interest rate. The House amendment includes in those administrative and other costs which are to be recovered, those costs incurred by the claimant or claimants against the fund.

The House amendment separates potential defendants into two classes for the purpose of differentiating their respective rights to dispute claim settlements. If the fund proceeds against owners, operators and guarantors who either deny designation or who deny liability, such parties cannot contest the amount involved, except to the extent that it exceeds their limit of liability. If, however, such parties accepted the designation and attempted to negotiate with the claimant, the defendant has a right to contest any amount paid in excess of the largest amount offered in settlement to the claimant by the defendant. The Senate bill does not make this separation.

The House amendment has a provision requiring the Secretary to pay claimants the amounts which the fund recovers equal to the costs incurred by the claimants against the fund, plus interest, except that

the fund shall not be liable for interest for the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant accepts the offer. The Senate bill has no comparable provision. With certain technical amendments, the conference report incorporates the House language for this entire section.

Section 309—Jurisdiction and venue

Both versions have similar provisions setting out jurisdiction and venue. The Senate bill, however, specifically states that in cases where the damages involved occurred outside of any district, venue may lie in the nearest district. The House amendment assumed that proper jurisdictional lines would be drawn and that this provision was not necessary. The conference report contains the House language for this section.

Section 310—Relationship to other law

The House amendment states that the damages listed in this title can only be recovered in Federal court under this title. The Senate bill does not contain a comparable provision, and it specifies that nothing in the title shall be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or cleanup costs within the jurisdiction of any State.

The House amendment does say, however, that its preemption language should not be interpreted to preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and pre-positioning of oil pollution and cleanup equipment.

The Senate bill makes clear that no person may recover for the same damages under both this title and under other state or federal law.

Both versions specifically relieve owners and operators from any responsibility to establish evidence of financial responsibility for oil pollution in excess of the requirements of the respective titles.

The House amendment states that nothing in its preemption language shall prohibit an action by the fund, under any other provision of law, to recover compensation paid pursuant to this title.

On this section, the House receded and with certain technical changes, the conference report adopts the Senate language on this section. Thus, the conference report does not preempt liability or preclude a State from imposing additional requirements or liability for any discharge resulting in damages or cleanup costs within a State's jurisdiction. Double recovery by a claimant is barred, however, and no State can require evidence of financial responsibility if such evidence is maintained in accordance with this title. As noted in the introduction to the discussion of this title, the conferees do not in any way intend, by adoption of this title, to affect consideration of, or approval of, any language in a comprehensive oil spill act. It is hoped and expected that such a comprehensive bill will soon be enacted and thus obviate the need for this title.

Specifically, by adopting the Senate language on "nonpreemption", the conferees do not in any way intend to bind the House or Senate in its final determination as to whether or not State laws, or how State laws, are to be affected by enactment of a comprehensive oil spill statute.

Section 311—Prohibition

The conference report is the same as the House amendment and the Senate bill.

Section 312—Penalties

Both versions would assess penalties for failure to comply with regulations requiring the acquisition of proof of financial responsibility. In the House amendment, the maximum civil penalty is $10,000; in the Senate bill it is $25,000.

The House amendment includes additional language stating that the authority to assess and compromise the penalties involved is conferred upon the President or his designee in connection with the establishment and maintenance of evidence of financial responsibility for vessels, and upon the Secretary in connection with such requirements as to facilities, as well as to violations involving denials or detention orders issued to vessels.

Both versions have similar provisions establishing penalties for failure to notify, except that the Senate bill specifically prohibits conviction under both this title and the Federal Water Pollution Control Act, for the same failure. The conference report follows the House amendment for this entire section.

Section 313—Authorization of appropriations

Both versions have identical authorization of appropriations sections, except that in the Senate bill, the authorization begins in fiscal year 1978 1 year earlier than the House amendment.

Also the Senate bill authorizes such sums as may be necessary to reimburse the fund for cleanup costs paid as a result of spills caused by negligence or the intentional act of any federal agency or instrumentality.

The conference report contains the House language for this entire section.

Section 314—Annual report

Both versions call for the submission by the Secretary of an annual report. The House amendment states that the report shall be submitted to the "Congress", while the Senate bill specifies the Speaker of the House and the President of the Senate. The Senate bill alone requires that the report include a summary of the management and enforcement activities of the fund.

The conference report follows the House amendment language for this entire section.

Section 315—Effective dates

The House amendment contains a provision which states that the subsection requiring a study of available insurance and all other provisions of the title authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of the act, and that all other provisions and applicable regulations would become effective 180 days after the date of enactment. The Senate bill contains no comparable provision. With certain conforming changes, the conference report is the same as the House amendment.

Other provisions

The House amendment contains a provision stating that if any provision is found invalid, the remainder of the act shall not be affected. This provision is deleted in the conference report as assumed to be the situation without specific language.

The Senate bill contains a provision requiring the President to act to remove or arrange for the removal of oil spilled in violation of the title, unless he determines that such removal will be done properly and quickly by the owner and operator of the vessel or facility involved. Such action is to be conducted, to the greatest extent possible, in accordance with the regulations issued under the Federal Water Pollution Control Act for the removal of oil and hazardous substances. The House amendment contains no comparable provision.

The Senate bill has a separate section enumerating the duties and powers of the Secretary. The House amendment has no comparable provision, but include the powers and duties under separate sections where appropriate.

The Senate bill contains a provision requiring that copies of communications transmitted between Federal officials and any persons concerning liability and damages under this title be available for public inspection and copying. The House amendment contains no similar provision.

The latter three provisions of the Senate bill are deleted in the conference report.

TITLE IV—FISHERMAN'S CONTINGENCY FUND

The House amendment included a "Fishermen's Gear Compensation Fund" as a section of an amended OCS Lands Act. The Senate bill included a "Fishermen's Contingency Fund" as a separate title to the 1978 Amendments, not directly amending the OCS act. The conference report contains the Senate structure and caption.

This title is intended to provide a formal mechanism for compensation to fishermen for damages to fishing vessels, gear, and other consequential damages stemming from activities related to the development of oil and gas resources on the OCS.

Section 401—Definitions

Section 401 of the conference report adds definitions for seven new terms.

The Senate bill contains a definition of "citizen of the United States" which includes all citizens, all States and groups of States and their agencies, and all businesses organized under the laws of any State, if such businesses are clearly owned and controlled by at least 75 percent by U.S. citizens and if their president or chairman of the board is a U.S. citizen. The House amendment contains no comparable provision.

The conferees recognize the need to define who is eligible for compensation for damages suffered and for loss of income resulting from certain offshore oil exploration, production and development activities. Accordingly, the conference report follows the Senate bill by including this provision.

The House amendment defines a "commercial fisherman" as one who is a citizen of the United States and who owns, operates or derives in-

come from being employed on a commercial fishing vessel. The Senate bill contains no such definition. The conference report is the same as the House provision.

The House amendment defines "commercial fishing vessel" to mean any vessel primarily used for the handling or harvesting of living marine resources for commercial purposes. The Senate bill has no comparable provision. The conference report follows the House amendment with an amendment defining "commercial fishing vessel" to mean any vessel, boat, ship or craft primarily used for the handling or harvesting of living marine resources for commercial purposes, including fish-harvesting related vessels. It specifies that all "commercial fishing vessels" be U.S. documented except those under five net tons which may be registered under the laws of any State. The conferees indicated that the total package of vessels that deal with the catching and harvesting of marine resources should be included. The conferees recognize that any limit to the scope of the fund might cause litigation, confusion and a loss of benefits to fishermen, and thus adopted this more inclusive definition.

The conference report defines "fish" to mean any of numerous cold-blooded aquatic vertebrates having fins, gills and a streamlined body. It includes mollusks, the shell-bearing invertebrates, such as clams, and crustaceans, the aquatic arthropods, such as lobsters. All other forms of marine animal and plant life are included in this definition except for marine mammals, birds, and highly migratory fish species, e.g. tuna. The Senate bill and the House amendment did not define the term "fish". The conferees included this definition to avoid any confusion and loss of benefits to the fishermen.

The House amendment in 401(5) defines "fishing gear" to include (A) any commercial fishing vessel, and (B) any equipment, whether or not attached to such a vessel, which is used in the handling or harvesting of living marine resources for commercial purposes. The Senate bill contains no comparable provision. The conference report follows the House amendment with the deletion of the reference to "the handling or harvesting of living marine resources for commercial purposes", which is covered by the definition of "commercial fishing vessel."

Neither version included a definition per se of "fund." However, one was included in the conference report for the sake of clarity. "Fund" means the fishermen's contingency fund established under this title.

The Senate bill defines the term "Secretary" to mean the Secretary of Commerce. The House amendment contains no comparable provision. The conference report contains the Senate definition of the term "Secretary" but expands it to include the designee of the Secretary. The conferees expect that the Administrator of the National Oceanic and Atmospheric Administration (NOAA) will be responsible for administering the fishermen's Funds.

The Senate bill alone defines "commercial fishing" as meaning all aspects of the commercial harvesting and handling of living marine resources. The House amendment contains no such provision. The conference report deletes this provision as unnecessary since a definition for "commercial fishing vessel" is included.

Section 402—Establishment of the fishermen's contingency fund fee collection

Both the House amendment and the Senate bill require the establishment of a fund to be available for compensating fishermen for damages suffered to their vessels and equipment, and for loss of income, resulting from certain offshore oil exploration, production and development activities. The conference report follows the House amendment with certain technical changes.

The House amendment establishes the fund directly within the Treasury of the United States, while the Senate bill establishes the fund within the Department of Commerce. The conference report follows the House amendment. Both the Senate and House establish a revolving account within the Treasury. The conference report includes this provision.

The House amendment limits amounts in the fund to $600,000, while the Senate requires the collection of fees at least until the fund attains a level of $2 million and requires that the fund be maintained thereafter at between $2 million and $5 million. The conference report limits the fund to $1 million.

The Senate bill and the House amendment have similar provisions allowing the fund to sue, and providing for the deposit of certain sums into the fund. The conference report is the same as the House amendment.

The House amendment authorizes the Secretary to establish and maintain separate area accounts within the fund for the purpose of providing compensation for certain damages to fishermen within each area of the Outer Continental Shelf. The Senate bill has no comparable provision.

Area accounts in the House amendment would be financed by assessments made by the Secretary on OCS leaseholders and pipeline permittees in each affected area. These assessments would be limited to a maximum of $5,000 per lessee or permittee in any calendar year. The accounts, in turn, would be maintained at a level not to exceed $100,000 and, if depleted, would be replenished by equal assessments by the Secretary of the lessees and permittees in the area. The Senate bill contains no comparable provision, relating to special area accounts. The conference report follows the House amendment with some technical changes. A reference is included for a holder of "easement, or right-of-way," to make certain they may be assessed an appropriate amount. In addition, the Secretary of the Interior and not the Secretary of Commerce is to collect the assessments and deposit them in the appropriate account within the fund. As just mentioned the conferees intend that the Secretary of Commerce assess any holder of a "exploration" permit, or of an "easement" or "right-of-way" for the construction of a pipeline in an appropriate amount up to $5,000 and not just the holder of a "permit" as specified by the House amendment.

The conference report also includes within the purposes of area accounts, compensation for "loss of" fishing gear and not just damages, as provided in the House amendment. This change was made to clarify that compensation may be paid for loss of gear, as well as damage.

The House amendment provides that each area account shall be established and maintained at a level not to exceed $100,000, and to be replenished, if necessary, by equal assessments by the Secretary on each holder and each pipeline permit holder in such area. The Senate bill contains no such provision. The conference report follows the House provision with an amendment providing, discussed earlier for replenishing accounts by "appropriate" not necessarily "equal" assessments, of holders of easements and rights-of-way.

Both the Senate bill and the House amendment provide for the disbursement of money from the respective funds. The House amendment would allow disbursements from the area accounts, subject to such amounts as are provided in appropriations acts, while the Senate bill would allow disbursements from the fund. The conference report follows the House amendment, allowing disbursements from the area accounts in amounts provided by appropriations acts.

Both the bill and the amendment allow disbursement for administrative or personnel expenses of the fund or area account, except that the House amendment limits such disbursements to 15 percent of the total amount deposited in the revolving account during the fiscal year. The conference report is the same as the House provision.

Both the Senate bill and the House amendment, using different language, allow disbursements for the payment of claims under this section or title.

The conference substitute is the same as the House provision.

The House amendment would allow disbursements for the payment of reasonable attorneys' fees awarded pursuant to the claims settlement provisions of the section. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment requires that any exploration plan, and any development and production plan, approved by the Secretary, as well as any permit issued for the construction of a pipeline in an area of the Outer Continental Shelf, contain a provision that the lessee or permittee shall agree to pay amounts specified by the Secretary, up to a maximum of $5,000 per year in order to establish and maintain a fishermen's gear compensation fund for such area. The Senate bill contains no comparable provision. As the "funds" are now included as a separate title and not as part of the OCS Act, and as independent authority is given for assessments, the conferees believed this provision unnecessary. Thus, the conference report follows the Senate bill and contains no such provision.

Section 403—Duties and powers

Both the House amendment and the Senate bill have a provision spelling out the general powers and duties of the Secretary. These provisions are similar with respect to the Secretary's power to prescribe regulations for the settlement of claims. With regard to prescribing such regulations, the conference report adopts the common language of both versions and in addition adopts the Senate language requiring, and not merely authorizing, such regulations.

Both versions contain similar provisions with respect to the classification of potential hazards to commercial fishing, except that the House amendment specifies hazards caused by Outer Continental Shelf oil and gas exploration, production and development activities rather

than referring simply to Outer Continental Shelf activities. The conference report follows the House amendment with a technical amendment providing that such hazards are to be "identified" and not "established".

Both versions are similar with respect to regulating the stamping of materials, except that the House amendment specifically requires such stamping or labelling, wherever practicable. The conference report follows the House amendment, with an amendment specifying that it is the Secretary of the Interior that is required to establish the regulations for identifying all OCS materials, and that such materials when necessary for purposes of identification, should be "color-coded".

The Senate bill also contains provisions requiring the Secretary generally to administer and maintain the fund, in accordance with the provisions of the title, and to perform such other functions as are necessary to carry out these provisions. The House amendment does not contain similar language. The conference report follows the House amendment and contains no such provisions, since the Secretary is already empowered with all such necessary incidental authority.

Recoverable damages

Both the Senate bill and the House amendment contain provisions spelling out the types of damages which fishermen may be entitled to recover. The House amendment would allow payments to be disbursed by the Secretary from the appropriate area account to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear. The Senate bill would allow recovery for "damages and loss to profit" to commercial fishing vessels and gear for the replacement value of any loss of all or part of a commercial fishing vessel, the replacement value of any loss of all or part of gear used, and the loss of revenue to a commercial fishing vessel and crew due to OCS activities; such loss to be based on the averaged daily revenue over the previous year. The conference report follows the House amendment with the addition of a phrase allowing payments, whether or not such damange occurred in such area. This change was included to avoid administrative and other problems when the exact location of the occurrence which led to damage is unknown or disputed or when the damage occurs somewhere along the supply route between the oil drilling equipment in the OCS and the shore.

Section 403(c)(1) authorizes the payment to fishermen of damages, for damages to or loss of fishing gear, and includes loss of profits. Section 403(a)(1) requires the Secretary of Commerce to promulgate appropriate regulations to handle claims and awards. The conferees intend that appropriate regulations should determine what "profits" are to include. Such "profits" should be limited to the actual loss of the fishermen and thus should ordinarily be limited to the net profits lost.

The House amendment includes a list of circumstances under which payments cannot be made to fishermen. These include circumstances under which the damages were caused by objects of known ownership; payments which are in excess of $75,000 per incident; payments to the extent that damages were caused by the negligence or fault of the claimant; cases where the damage involved was sustained prior to the enactment date of the act; payments which are in excess of the depreciated value of the damaged fishing gear; payments for loss of profits for

a period in excess of six months unless such a claim is supported by specified records; and payments for damages which have already been or which will be compensated for by insurance. The Senate bill contains no comparable list.

The report follows the House amendment except for two changes. First, the ceiling of $75,000 per incident is deleted. Second, the House amendment limiting recovery to the depreciated value of the fishing gear was amended by limiting recovery instead to the replacement value. This sets a limit and not a floor. The Secretary of Commerce is authorized to disburse payments for "actual and consequential damages." Determinations of amounts to be paid, first by the hearing examiner and then pursuant to judicial review are similarly to be limited to "actual and consequential damages." Thus, in evaluating payments on a claim, the replacement cost is to be the maximum allowable—but may not necessarily be the actual amount paid. The actual amount is to be determined case by case—on the basis of the "actual and consequential" damages standard.

This section limits payments to fishermen in cases where the fisherman is negligent or at fault. Specifically, such payments are limited "to the extent" that damages were caused by negligence or fault. This establishes a "comparative negligence" type standard. Recovery is not barred totally if negligence or fault is involved. However, the amount of recovery is to be diminished in proportion to the negligence or fault of the claimant.

Section 404—Burden of proof

Both the House amendment and the Senate bill contain a provision spelling out a set of circumstances under which the standing of any particular claim would be improved. The House amendment states that if the claimant can establish certain facts, there shall be a presumption that his claim is valid, while the Senate bill says that under those conditions there shall be a presumption in favor of the claim.

The lists of circumstances allowing a presumption are similar in the amendment and the bill except that the House amendment refers throughout to damage caused by "material, tools, containers or other items" while the Senate bill refers simply to "obstacles".

The House version requires the report of damages to be made within five days after they are discovered. The Senate bill requires an "immediate report".

The House version requires the lack of a record on nautical charts or the notice to mariners on the date damages were sustained, while the Senate bill specifies no previous or existing record.

Both versions refer to the lack of a surface marker or buoy, but the Senate bill includes this basis only in lieu of the lack of a record on nautical charts. In each of the above instances, the conference report is the same as the House amendment.

Only the Senate bill includes in the list a requirement that the claimant establish that the damage or loss of revenue was received after the enactment date of the act. The conference report is the same as the House amendment, and contains no such provision. It is intended that the Secretary of Commerce, in consultation with the Secretary of Interior, establish area accounts and utilize this title in appropriate

circumstances, for existing leases, permits, or rights-of-way, and be given the discretion to disburse funds for damages occurring prior to enactment.

Section 405—Claim procedures and subrogation of rights

Section 405 describes the procedures by which claims are determined and awarded.

Only the House amendment requires a claim to be filed within 60 days of discovery of a claim. The conference report is the same as the House amendment.

Claims decisions

The House amendment and the Senate bill differ greatly in the manner in which claims will be considered. The House amendment provides for determination by a hearing examiner and the Senate bill by the Secretary with advice from a board, described in detail in the Senate bill. The conference report follows the House amendment by referring the matter to a hearing examiner.

The House amendment would require the Secretary to refer claims to a hearing examiner appointed under section 3105 of the United States Code and to notify, to the extent reasonable, all persons known to have engaged in activities associated with OCS energy operations in the vicinity. Each person so notified would be required to inform as to whether he admits or denies responsibility for the damages claimed. All such persons would be accorded the opportunity to submit evidence at any hearing conducted in connection with the claim. The hearing examiner would be allowed 120 days to adjudicate the case and render a decision in accordance with section 554 of title V of the United States Code. The conference report follows the House amendment with some minor structural changes.

The House amendment would require the hearing examiner to include reasonable attorneys' fees in the amount certified to the Secretary as compensation for claims which he judges to be valid. The Senate bill allows attorneys' fees when the Secretary's decision is affirmed on judicial review. The conference substitute is the same as the House amendment with minor structural changes.

The House amendment provides that the hearing examiner shall have the power to administer oaths and to subpoena pertinent witnesses and documents in connection with any hearing conducted pursuant to this section. The Senate bill does not mention the right of the Secretary to administer oaths but does give him (and the Comptroller General) access to records. The conference report is the same as the House amendment with minor structural changes.

In any hearing conducted pursuant to this section, the House bill provides that the hearing examiner shall consider evidence of obstructions in the area as identified by the survey required. The Senate bill contains no such provision. The conference report is the same as the House amendment with minor structural changes.

The House bill states that hearings shall be conducted within the judicial district nearest to, or within which, the matter occurred, or, if the matter took place in more than one district, in any of the affected districts. The Senate bill, not providing for hearings, does not have

comparable language. The conference report is the same as the House amendment.

The House amendment provides that decisions by the hearing examiner are final and not reviewable by the Secretary. The Senate bill contains no such language as the Secretary makes the initial decision as to a claim. The conference report is the same as the House amendment.

The House amendment and the Senate bill have similar subrogation provisions. The conference report is the same as the House amendment with minor technical changes so as to provide that payments from a fund to a claimant entitles the Secretary to acquire by subrogation the applicable rights of a claimant against a responsible party. Thus, the right of subrogation is limited to the amounts awarded to the claimant. No other rights, or amounts beyond that awarded, are subrogated.

The House amendment has a provision stating that any person who denies responsibility for damages and is found responsible for damages, and any commercial fisherman who files a claim and is subsequently found to be responsible for damages, shall pay the costs of the proceedings conducted with respect to such claim. The Senate bill has a roughly comparable provision stating that those persons involved in OCS activities who are identified as having caused damages or loss of revenue shall reimburse the fund for such amounts that it has paid to the claimant for such damage. The conference report is the same as the House provision.

Both the Senate bill and the House amendment provide, in a similar manner, for judicial review of decisions made with respect to claims. The conference report is the same as the House amendment.

The Senate bill alone, in addition, provides specifically that in any case in which the person responsible for damage to commercial fishing vessels or gear seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision is affirmed. The House amendment contains no such specific provision. The conference report contains no such provision, however, elsewhere it does require the hearing examiner to include reasonable attorneys' fees in the amount certified to the Secretary as compensation for claims which he judges to be valid. As with any award for attorneys' fees, this certification may be amended to include costs on appeal.

Section 406—Annual report

Both the House amendment and the Senate bill require the submission of an annual report by the Secretary to the Congress. The House amendment would require a report setting forth (1) an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the OCS which pose potential hazards to commercial fishing or fishing gear by imposing fines where approprite or by requiring the bonding of OCS lessees or permittees, (2) a description of the types of damages set forth in claims filed during the previous year, (3) the amount of compensation awarded during the year, and (4) the number of cases during the previous year in which damages were determined to be the responsibility of a lessee or permittee on the OCS, or of a contractor or subcontractor. The Senate bill would require a report within 6 months after the end of each fiscal year.

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which would (1) report on the administration of, and payments from, the fund during such fiscal year and (2) recommend to the Congress such additional legislative authority as may be necessary to improve the management of the fund and the administration of the liability provisions of the title. The conference report is the same as the House amendment, except that paragraph (1) regarding an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the OCS is deleted as separately provided for in subsection 406(b).

Sec. 406(b) requires the Secretary, after consulting the Secretary of the Interior, to include in the first annual report an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the OCS which pose potential hazards to commercial fishing or fishing gear by imposing fines where appropriate or by requiring the bonding of OCS lessees or permittees. The conferees believed it was not necessary to provide for this required calculation every year.

Section 407—Survey of obstructions on the OCS

The House amendment directs the Administrator of NOAA to conduct a 2-year survey of obstructions on the OCS, and requires a report and the development of charts based on the survey. The Senate bill contains no comparable provision. The conference report follows the House amendment with an amendment deleting the specific reference to the Administrator of NOAA. The provision now directs the Secretary (of Commerce) in cooperation with the Secretary of the Interior to conduct a two year survey of obstructions on the OCS, and requires a report and the development of charts based on the survey. It directs the Secretary to concentrate during the first 6 months of the survey on areas of the OCS where oil and gas production has commenced or is expected to commence shortly. It is expected that the Secretary will use the administrator of NOAA to conduct the survey.

Other provisions

The Senate bill contains a specific provision providing jurisdiction and venue in the district courts over nonclaim controversies. The House amendment has no comparable provision. The conference report follows the House amendment and contains no such provision.

The Senate bill requires the Secretary to ask the Attorney General to represent the fund. If the Attorney General does not respond within a reasonable time, the Secretary may appoint other attorneys. The House amendment contains no comparable language. The conference report follows the House amendment and contains no such provision. It is assumed that as with other provisions of the 1978 amendments, the Attorney General will represent the fund.

The Senate bill contains a section authorizing appropriations for the administration of the title, in the amount of $200,000 for each fiscal year through 1990. Also authorized is $500,000 to serve as an initial deposit in the fund, to be repaid to the Treasury as soon as practicable. The authority to pay claims under the title will only be effective to the extent provided, without fiscal year limitation, in appropriations acts. The House amendment has no comparable provision. Establishment of a fund or funds is discretionary with the Secretary. The con-

ference report follows the House amendment and contains no such provision, as authorization to appropriate is now provided elsewhere in this title.

TITLE V—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

The Coastal Zone Management Act Amendments of 1976 (Public Law 94–370), among other purposes, were intended to provide Federal financial assistance to coastal States impacted by coastal energy activity.

The coastal energy impact program (CEIP), which was the major section of the 1976 amendments, is composed essentially of three parts. Planning grants are provided to States if their coastal zones are affected by the location of energy facilities. Loans and bond guarantees are also provided to assist the coastal States in financing public facilities and public services required as a result of coastal energy activity.

The third part provides grant funds to coastal States impacted by Outer Continental Shelf (OCS) energy activities which are intended to assist in the financing of public facilities, public services, and environmental costs associated with such activity. These so-called OCS formula grants are provided in section 308(b) of the existing CZMA.

Section 501—Coastal energy impact program

Both the Senate bill and the House amendment contain amendments to section 308(b) but do not provide any modifications in the planning grants or loans and bond guarantee provisions of the CEIP.

Formula

The Coastal Zone Management Act (CZMA) provided a formula for distribution of OCS formula grants. The Senate bill makes no change in the four criteria of the present CZMA. The House amendment changes the percentage of each criterion and drops the provision referring to "the number of individuals * * * who obtained new employment in such preceding fiscal year as a result of * * *" OCS energy activity. The conference report contains the House amendment modification of the formula. Specifically, the formula in the conference report is based on three criteria: new acreage leased adjacent to a coastal State (50 percent); oil and gas produced adjacent to a coastal State (25 percent); and oil and gas first landed in the coastal State (25 percent). The present criterion with respect to new employment is dropped in the conference report.

Floor and ceiling

The House amendment contains provisions which establish an individual State "ceiling," and a "floor" for States which are not included in the formula but which fulfill certain criteria. The Senate bill has no comparable provisions.

With respect to the former provision, the House amendment establishes a ceiling of 30 percent of the total amount credited to the CEIP which any individual coastal State may receive in a fiscal year. Additionally, the amendment provides that any "affected State", as determined by the Secretary of Commerce in accordance with stated standards, which does not fulfill any of the three-formula criteria, but is located in a region of a State which does, shall receive 2 percent of the total amount appropriated in a fiscal year.

Because the nature of the CEIP program and distribution formula is focused on offshore oil and gas activity, the vast proportion of grant funds will continue to be allocated to the region of the country already heavily involved in such activity. A significantly reduced amount could be available to frontier States if one or two "developed" States took a large portion of the appropriated funds. Consequently, the concept of a ceiling is included in the House amendment.

The "floor" provision arises out of the difficulties in adequately anticipating onshore impacts and, in part from the need to rely on delimiting State lateral seaward boundaries for the purpose of allocating CEIP funds. Consequently, it is probable that some States experiencing spillover impact from OCS development may be ineligible for formula grant assistance under the existing formula. The concept of a minimum floor contained in the House amendment is designed to address this particular problem.

Because the 2-percent floor provision allocates funds to nonformula States, it may lead to an inadequate amount of funds being available to provide the full amount to which each State is eligible under the formula. As conforming language, therefore, the House amendment contains a "proportional reduction" mechanism which provides that, when this situation obtains, each State's share will be reduced in accordance with its proportion of any fiscal year's allotment. The Senate bill, because it has no minimum floor for States, has no comparable provision.

The House amendment specifies the coastal States which are located in each of the four regions: Altantic, gulf, Pacific, and Alaska. It also provides an additional requirement for a State to receive the 2-percent funds. Specifically, such State would have to be an "affected State", the definition of which is taken directly from section 201(f) of the definitions section of the conference report.

The intent of the "affected States" provision is to prevent the coastal States which would not be impacted in a region from receiving the 2-percent funds. This is a particular problem in the Atlantic where all States along the coast are included in one region. For example, OCS drilling in the Baltimore Canyon area may have little or no impact on the State of Georgia but Georgia is included in the Atlantic region by definition.

Sequence and chronology

The conference report contains the concepts of a ceiling, minimum floor, specification of regions, proportional reduction, and "affected States" determination. However, the managers made certain modifications in some of these House amendment provisions and also agreed to specify statutorily the sequence of steps to be taken in the calculations of individual State allotments and the precise chronology for the imposition of the ceiling, minimum floor, and proportional reduction stages. Also, the managers deleted the provision in the House amendment in which any unallocated funds (resulting from the ceiling) would remain in the Treasury. The conference report contains a provision which would redistribute such funds to coastal States above the minimum and below the ceiling.

Specifically, it is the intent of the managers that the following steps in the calculation be taken in the order indicated:

1. The proportion of each State's allocation under the formula contained in paragraph 2 of section 308(b) of CZMA be calculated.

2. Those "formula" States which would receive an amount less than 2 percent of the amount appropriated should be raised to 2 percent of such appropriation.

3. "Non-formula" States which are located in the region of any other coastal State which is included within the formula are entitled to receive 2 percent of the amount appropriated in a fiscal year if the Secretary of Commerce determines that such non-formula States are being or will be impacted by OCS energy activity and that they will be able to expend or commit the funds accordance with the purposes set forth in the OCS formula grant section.

This clause referring to the Secretary's determination of impact by offshore activity was an amendment offered during the conference committee and accepted by the managers in lieu of a five-part definition of "affected States" which is contained in the House amendment. "Outer Continental Shelf energy activity" is a defined term in the existing CZMA and refers generally to any offshore exploration, development, or production activity or the siting, construction, expansion, or operation of energy facilities required by such activity. It is the intent of the managers that the Secretary look to OCS energy activity which occurs in the prior fiscal year for purposes of making this determination. This would be consistent with the manner in which the formula is applied, namely that funds appropriated for formula grant purposes are allocated on the basis of OCS activity occurring in the previous fiscal year.

At the same time, it is understood that the phrase "will be impacted" implies an anticipatory judgment by the Secretary and that this discretionary authority to determine eligibility for the 2 percent grants is not, and is not intended to be, strictly circumscribed by hard data. It is the intent of the managers that the 2 percent minimum floor provision provide funds to those States which do not fall into the formula but which will experience spillover impacts necessitating public facilities, public services and environmental costs occasioned by OCS activities. Assessments of the causal effects emanating from such activities and, thus the need for the 2 percent minimum floor for nonformula States, should be determined by the Secretary within the context of this primary purpose and based on an analysis of the immediacy of impact, equity in distribution, and the reasonable needs for and the ability of the States properly to expend the proceeds on OCS-induced public facilities, public services, and environmental needs.

4. If the amount of appropriations is less than the amount payable to all coastal States under those calculations, all States receiving more than 2 percent of the amount appropriated shall be proportionately reduced to conform the amounts payable with the amounts appropriated. Proportional reduction shall be accomplished by reducing the

amounts payable to those coastal States that receive more than 2 percent of the total amount appropriated by an amount represented by the following formula:

$$(T-A) \times \frac{P - 2\% \text{ of } A}{TP - (2\% \text{ of } A \times S)}$$

Where:

T = the total amount payable to all coastal States;
A = the total amount appropriated for making grants;
P = the amount payable to a coastal State which will receive more than 2 percent of the funds appropriated;
TP = the total amount payable to those States which will receive more than 2 percent of the funds appropriated;
S = the number of coastal States which will receive more than 2 percent of the funds appropriated.

5. After the proportional reduction calculations are made, any coastal State which would receive more than 37½ percent of the amount appropriated is to be reduced to 37½ percent of such appropriations.

6. If the application of the 37½ percent ceiling results in any residual appropriated funds, such excess shall be paid proportionately to all coastal States which are to receive more than 2 percent but less than 37½ percent of the amount appropriated. No State may receive more than 37½ percent of the amount appropriated after the residual funds are paid proportionately to the appropriate States. "Payable proportionately" means that any residual funds are to be apportioned among the States receiving more than 2 percent but less than 37½ percent based on the formula contained in paragraph 2 of section 308. In making the formula calculations under that paragraph, the ratios to be calculated for each of the three criteria are to be made up of data applicable only to those States receiving more than 2 percent and less than 37½ percent of the amount appropriated. Specifically the numerator and denominator of the proportions in each of the criteria are to be composed of the appropriate OCS activities of only those States above the 2-percent floor and below the ceiling.

Changes in grant eligibility and use

Both the Senate bill and the House amendment delete the obligation on a coastal State to obtain financing under the loans and bond guarantees provision of section 308 of CZMA before formula grant funds may be used. The term "new or expanded" modifying Outer Continental Shelf energy activity in the same provision of the existing law is also deleted by both versions. Consequently, the conference report does not contain these two provisions.

Presumption of OCS activity

The Senate bill contains a provision which authorizes by regulation, in which public facilities and public services are presumed to be required as a result of OCS energy activity. The House amendment has no comparable provision and the conference report follows the Senate bill.

Timing and distribution of grants

The House bill modifies the existing law with respect to the timing of the distribution of OCS formula grant proceeds and the assurances

which the Secretary must obtain before forwarding such proceeds to the States. The Senate bill contains no comparable language and thereby retains the existing provisions of the CZMA on this matter.

Specifically, the existing law is administered in a manner whereby OCS formula funds are maintained in individual State accounts in the U.S. Treasury (based on the State's allocation under the formula) and dispersed only at the time of expenditure and after a federal review of the purposes of the proposed project.

The House amendment provides that the funds are to be transferred to State banks and held in "escrow" until the Secretary of Commerce completes the project review process, makes a grant award, and the funds are actually expended. The conference report follows the Senate provision.

Section 502—Authorization of appropriations

The House amendment amends section 9 of the Outer Continental Shelf Lands Act to provide that all Federal OCS rentals, royalties, revenues, and other sums, be deposited in the Treasury (other than the proceeds presently credited). Of this amount, 20 percent (up to a maximum of $200 million) is to be credited in each fiscal year to the Coastal Energy Impact Fund (CEIF) which was established by the 1976 amendments. Amounts actually dispersed to the States are subject to appropriations. At present, the CEIF is a revolving fund for the provision of loans and bond guarantees to the States for coastal energy activity. There is no fiscal year limitations on the crediting mechanism in the House amendment.

The Senate bill contains standard authorization of appropriations language to increase authorizations for the OCS formula grants from $50 million to $75 million for each of the eight fiscal years beginning with fiscal year 78.

The conference report provides for standard authorization of appropriation language at a yearly level of $130 million beginning in fiscal year 79 and for the following 9 fiscal years.

Section 503—OCS grants

The House amendment adds a new provision to section 308(c) of CZMA authorizing the Secretary of Commerce to make 80-percent grants to coastal States likely to be affected by OCS energy activities. The purpose of these grants is to enable such States to carry out their responsibilities under the OCSLA. The State responsibilities intended to be financially assisted by such grants include the administrative, policy, operational, and managerial aspects of participating in the Federal leasing program but do not include any of the planning, public facility, public service, or environmental protection costs contained in other provisions of CEIP.

It is the intent of the House amendment that the Secretary of Commerce have considerable discretion in administering this new administrative grant provision. This flexibility is needed because of the uncertainty of lease sale schedules, exploration and production timetables, and the precise incidence and magnitude of actual impacts on any individual coastal State.

For purposes of dispersing the grant funds to coastal States, this provision intends that some type of formula be established and then

be contained in the regulations promulgated by the Secretary of Commerce.

In 1975, $3 million was appropriated in supplemental funds to coastal States through the coastal zone management program. This money was to be used by the States to improve their capabilities to plan for and manage projected OCS impacts. In the regulations which were developed to implement these grants, a formula was provided for their allocation among the States. Specifically, a uniform allocation of one percent to the affected States was established. Then, of the remaining funds, 40 percent was to be allocated based on the length of a State's marine shoreline; 40 percent on coastal county population; and 20 percent on the basis of identified needs.

Some formula along these lines is intended by this measure although the precise system of allocation remains with the Secretary and should be based, to the maximum extent possible, on the actual OCS administrative responsibilities borne by each coastal State.

It should also be noted that the recipient executive agency in each State will vary—depending on which department or unit has OCS responsibilities. It need not be the same agency as the one which administers the coastal zone management program for the State or the one which receives coastal energy impact program financial assistance.

The Senate bill contained no comparable provision and the Senate conferees receded to the House. Consequently, the conference report contains a provision for these OCS administration grants at the level of $5 million per year, beginning in fiscal year 1979 and ending with fiscal year 1983.

Section 504—State management program

The House amendment modifies the OSC Federal consistency provision (section 307(c)(3)(B)(ii)) of the CZMA by reducing the amount of time by which State concurrence with an OCS exploration, development or production plan consistency certification is conclusively presumed. The Senate bill has no comparable provision and, thus, would retain the present statutory language which provides for a 6-month period for conclusive presumption. The House amendment reduces this to 3 months.

The managers agreed to an amendment which provides that if a State fails to make a consistency determination within 3 months after it receives its copy of the consistency certification, it (the State) shall provide a written statement describing the status of its review and the basis for further delay. The statement is to be submitted to the Secretary of Commerce, the appropriate Federal agency, and the lessee. If the statement is not provided on or before the end of the 3-month period, concurrence by the State with the certification is conclusively presumed. The submission of such statement, however, will preserve the State's present 6-month period for conclusive presumption.

The intent of the amendment is to maintain the 6-month review period but also to put coastal States on notice that they must begin to respond to development and production plans expeditiously and the submission of the written statement is intended to be an indication of that responsiveness.

Other provisions

The Senate bill contains a provision (sec. 507) regarding the inapplicability of any provision in section 308 of CZMA with respect to the National Environmental Policy Act and its effect on grants made pursuant to the OCS formula grants section. The House amendment contains no comparable provision and the conference report follows the House amendment on this matter.

TITLE VI—MISCELLANEOUS PROVISIONS

This title contains a number of miscellaneous provisions which are for the most part self-explanatory.

The conference report includes sections present, in identical form, in both the Senate bill and House amendment:

Section 601—Review of shut-in or flaring wells; section 602—Review and revision of royalty payments; section 605—Sunshine in government.

In addition, the conference report contains sections in this title, reconciling differences between the Houses as follows:

Section 603—Natural gas distribution

The Senate bill directs the Federal Power Commission (now the Federal Energy Regulatory Commission) to permit natural gas distribution companies to transport natural gas from the Outer Continental Shelf to the service areas of such companies if those companies engage, directly or indirectly, in the development or production of such gas from the Outer Continental Shelf.

The House amendment specifically states that the purpose of this section is to encourage participation by such companies in the acquisition and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas produced from an Outer Continental Shelf lease that is owned by any such company to the company's service area. It directs FERC, after an opportunity for written and oral public participation, to promptly issue and publish in the Federal Register, a FERC policy statement to carry out such purpose and to set general standards under which FERC would consider, under normal FERC procedural rules, applications by such companies for certificates of convenience and necessity for such transportation. Such certificates are to be issued pursuant to section 7 of the Natural Gas Act. The statement of policy will specify criteria, limitations, or requirements that FERC must apply in making determinations whether the applicant company qualifies for consideration of such a certificate pursuant to the FERC policy statement, and whether the public convenience and necessity will be served by the issuance of such a certificate. The policy statement will also establish the general terms or limitations on which FERC may condition, in accordance with section 7 of the Natural Gas Act, the issuance of such certificate. Any needed specific terms and conditions will be included pursuant to section 7 of the act. The section also defines the terms "local distribution company" and "interstate commerce."

The conferees adopted the House amendment with some modifications. It is the intent of this section as modified, to facilitate entry by

gas distributing companies into OCS leasing. To allow bids to be offered by such companies, they need assurances that they will be able to return any gas found on its lease to their own service area. The first modification makes it explicit that this purpose—and the policy to be formulated based on it—is appropriate for gas distribution companies, acting with others or utilizing alternative corporate methods. It is likely that gas distributing companies will enter into joint ventures to obtain OCS leases. Thus, the policy to be established by FERC should be applicable to gas distributing companies owning a portion of an OCS lease, such as participants in a joint bid, or as a part of a consortium.

Thus, the conferees make it clear that the companies need not be the sole owners of an Outer Continental Shelf lease for the production of natural gas. They can be participants, such as in a joint venture, in such lease with other persons who also share the risks and benefits of the lease. It is intended, however, that their participation be substantial and not a sham. It is expected that FERC will, as one element of the criteria of the policy statement, look at the risk shared by the local distribution company (LDC), taking into consideration the size and economic position of the LDC.

In addition, the conferees revised the definition of a local distribution company to include their subsidiaries or affiliates that actually engage in the exploration and production of natural gas on the Outer Continental Shelf. The conferees recognize that local distribution companies may not actually engage in such exploration and production, but they may form subsidiaries or affiliates to perform this fuction. The amendment would permit such a local distribution company to participate. At the same time, the conferees stress that the definition also requires that the local distribution company, including its subsidiaries or affiliates, must be regulated or operated as a public utility by a non-Federal-Government agency, although such regulation may not be to the same extent as the parent LDC. It is sufficient, in the case of a subsidiary or affiliate formed by the parent LDC, that there be State or local regulation which authorizes or sanctions the creation or organization of the subsidiary or affiliate and which applies, through regulation of the parent, to the costs and funds of the subsidiary or affiliate. FERC must be satisfied that there is sufficient corporate, functional, and financial linkage between the LDC and the subsidiary or affiliate to insure that no sham has been created and that the benefits of this section do not extend to persons, other than LDC's. Any affiliate or subsidiary that is not subject to such regulation is not eligible.

Clearly, as already stated, the intent of this section is to benefit local distribution companies only. It is designed to facilitate entry by such companies in the Outer Continental Shelf leasing so that they can distribute the proposed natural gas to their service areas only. Applications for certificates to transport natural gas by entities other than LDC's and their subsidiaries and affiliates are to be treated under normal FERC standards and procedures pursuant to section 7 of the Natural Gas Act.

In another modification, the conferees provide that FERC is to act promptly to develop a proposed policy statement and issue a final one. The conference committee agreement provides that the statements should be promulgated by the Commission, after full public participa-

tion, within one year after enactment. This period should be ample. However, the conferees recognize that FERC has many other duties and responsibiliites. Thus, FERC has sufficient flexibility under the section to take a longer period, if needed. The conferees stress that FERC should make every effort to complete the policy statement, including the required public participation, and promulgate within a one year time frame.

The statement, of course, should be published, when finalized, in the Code of Federal Regulations, along with other FERC rules, regulations, etc. The conferees also wish to make it clear that such a statement can be reviewed from time to time by FERC and revised consistent with the requirements of this section if FERC deems it appropriate.

Finally, the conferees add a provision making it clear that after considering applications for certificates made after promulgation of the policy statement, FERC will issue such certificates where FERC determines it appropriate to do so in accordance with the policy statement and section 7 of the Natural Gas Act.

Section 604—Antidiscrimination provisions

Both versions include antidiscrimination provisions. The House amendment makes reference to rules under titles VI and VII of the Civil Rights Act. The Senate bill makes reference only to title VI. The conference report follows the House amendment including title VII with an amendment deleting the provision that the antidiscrimination rules shall apply to aliens and include employment outside the United States where the Secretary of Labor shall not have the authority to grant exemptions.

Section 606—Investigation of availability of oil and natural gas from the Outer Continental Shelf

Both versions provide for an investigation of the availability of oil and gas.

The Senate bill is more inclusive. Thus, its title, findings, purposes and direction relate to all crude oil and natural gas. The House amendment relates only to OCS oil and gas. The conference report contains the more limited scope of the House amendment throughout the section.

The Senate bill authorizes the President to conduct a continuing investigation of availability of all domestic oil and gas. The House amendment directs the Secretary of the Interior to conduct an investigation as to the availability of OCS oil and gas. The conference report is the same as the House amendment.

Both versions provide for a determination or rates of production. The House amendment provides for determination of OCS "maximum attainable rates" and also a determination if actual production is less than MAR. The Senate bill provides for an independent determination of "MER" and "MPR" and for a Presidential study as to whether rates are being met. The conference report is the same as the House amendment.

The House amendment includes a definition of MAR. The Senate bill does not. The conference report is the same as the House amendment.

Both versions provide for the estimate of discovered reserves and undiscovered resources. The House amendment provides for an esti-

mate of OCS reserves and resources only. The Senate bill provides for an estimate of all resources.

In addition, the Senate bill provides specifically for "geological and geophysical explorations carried out by other Federal or appropriate agencies" when determined to be the "only means" to obtain "adequate * * * data". The House amendment contains no such specific comparable language. On these two provisions, the conference report is the same as the House amendment.

The Senate bill provides for determination of the use of oil and gas in terms of its end use market. The House amendment contains no comparable provision. The conference report is the same as the House amendment, and thus deletes this provision.

The House amendment provides for an independent evaluation of trade association procedures for estimating OCS reserves. The Senate bill provides for an independent evaluation of estimates of all reserves serves. The House amendment refers to the evaluation by the Secretary. The Senate bill describes it as by the President. The conference report is the same as the House amendment.

Both versions provide for a report to Congress. The House amendment describes a schedule relating to OCS information. The Senate bill describes a schedule for OCS and non-OCS information. The versions differ in actual months granted and for respective details of information to be supplied. The conference report is the same as the House amendment.

Both versions provide for consultation with the FTC, using different words. The conference report is the same as the House amendment.

The House amendment defines "OCS." The Senate bill has no comparable provision. The conference report is the same as the House amendment.

The Senate bill contains an extensive series of provisions providing for the collection of information, use of other Federal agencies and severance of provisions of this section. The House amendment contains no comparable provisions. The conference report is the same as the House amendment.

The Senate bill would preclude any injunctive relief as to any provision of the act, or action by the President under the act. The House amendment has no comparable provision. The conference report is the same as the House provision.

The Senate bill specifically provides that the invalidity of part of the act or application of the act to a particular person, does not affect the validity of the remainder of the act or application to other persons. The House provision has no comparable language. The conference report is the same as the House amendment.

The Senate bill contains a provision detailing an extensive series of means to collect information, conduct exploratory drilling, use other agencies and delegate authority. The House amendment contains no comparable language. The conference report follows the House amendment and deletes this provision.

As discussed earlier in relation to title II, this section, or any action by the conferees on this section, title or other provisions of the 1978 amendments is not intended, in any way, to affect the authority and responsibility of the Secretary of Energy, FERC, or other agencies

or departments to obtain, collect, and release information under other statutes.

Section 607—Recommendations for training program

The House amendment provides for the Secretary of the Interior, working with the Coast Guard, to prepare a report and recommendations for employment training relating to the OCS. The Senate bill has no comparable provision. The conference report adopts the House provision.

Section 608—Relationship to existing law

Both the Senate bill and House amendment provide that the 1978 amendments (all titles) are not intended to affect provisions or other statutes—unless expressly provided in the 1978 amendments. The conference report retains this provision.

In addition, both versions provide for retaining the authority given the Department of Energy and Federal Energy Regulatory Commission by the Department of Energy Organization Act but use different language to do so. The conference report is the same as the House language on consistency with the DOE Act. In addition, as described in this statement, in discussing the new definition of "Secretary," (as included in Section 201 of the conference report) the conferees adopted the new definition and made changes in the text and explanatory comments in this statement to specifically indicate the appropriate delegation of responsibilities.

Other provisions

The House amendment contains a provision providing for a one-House congressional disapproval of any rule or regulation. The Senate bill has no comparable provision. The House receded and the conference report contains no such provision.

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Managers on the Part of the House.

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Calendar No. 1019

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-1099

NATIONAL P.O.W.-M.I.A. RECOGNITION DAY

AUGUST 10 (legislative day, MAY 17), 1978.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.J. Res. 963]

The Committee on the Judiciary, to which was referred the joint resolution (H.J. Res. 963), designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day," having considered the same, reports favorably thereon without amendment and recommends that the joint resolution be agreed to.

PURPOSE

House Joint Resolution 963 would designate July 18, 1979, at "National P.O.W.-M.I.A. Recognition Day."

STATEMENT

This resolution is to honor those Americans who have been prisoners of war, and those listed as missing in action. It seeks to rekindle the memory of the sacrifices these individuals have made for their country and our indebtedness to them.

COST

The enactment of this legislation involves no direct additional expenditure to the Government.